

## **EAST AYRSHIRE COUNCIL**

### **EDUCATION COMMITTEE – 08 NOVEMBER 2005**

#### **ADDITIONAL SUPPORT FOR LEARNING PROGRESS**

##### **Report by Executive Director of Educational and Social Services**

### **1. PURPOSE**

- 1.1** To inform Elected Members of progress to date in the implementation of the Education (Additional Support for Learning) (Scotland) Act, 2004 and to seek approval for certain aspects related to further developments.

### **2. BACKGROUND**

- 2.1** Members will recall that the approach to supporting the learning of children in specific circumstances will change with the introduction of the Education (Additional Support for Learning)(Scotland) Act 2004. A number of reports have been given to Committee on the main features of the new law and approval was given for an implementation plan.
- 2.2** On 24 August 2005 the Scottish Executive issued a Code of Practice under the title “Supporting Children’s Learning”. A copy of this document is available in the Members’ Information Point. It explains, in some detail, what is expected in terms of the practical implications of the Act. The status of the document is similar to the Highway Code, in that although not having statutory force itself it can be quoted as a source of authority in any legal proceedings.
- 2.3** The terms of the Act, and therefore the Code of Practice, commence on 14 November 2005. From that date the Authority will no longer open any Records of Needs. Instead, the key legal document will be a “Co-ordinated Support Plan”, to qualify for which the child or young person must need significant additional support from more than one agency as a result of additional support needs which are likely to continue for more than one year.

### **3. PROGRESS TO DATE**

- 3.1** At national level, the two most significant developments are the appointment of independent adjudicators to assist in the resolution of disagreements and the establishment of the Additional Support Needs Tribunal. This latter will be based in Scottish Executive premises in Glasgow. It will consider matters in relation to the decisions within the process of producing Co-ordinated Support Plans. Aspects of procedure will require to be adapted to accommodate the existence of the Tribunal, most notably all key documents must advise parents and young people of their right to use this route.

- 3.2** Since the national launch of the Code, officers have been developing new documentation and procedures to meet the new set of conditions. The most notable steps are:
- ✓ the formation of joint strategic and operational groups with health and social work;
  - ✓ joint liaison meetings with the officers of neighbouring authorities to establish common approaches;
  - ✓ a contract with an independent mediator whose services are available to parents and young people from 14 November;
  - ✓ training for staff in mediation;
  - ✓ a programme of three training events for education, social work and health staff in late October and November;
  - ✓ information sessions for parents have been held in Kilmarnock and Cumnock;
  - ✓ adaptation of computerised tracking systems for children;
  - ✓ development of an integrated assessment framework within an all Ayrshire approach;
  - ✓ production of a number of information leaflets;
  - ✓ development of systems in partnership with the social work transitions team to ease the progress of young people towards adult life.
- 3.3** In addition, the parents of all children who have a Record of Needs have received an individual letter. This advised them of the significant changes in procedure and described how the transition from Records of Need to Co-ordinated Support Plans will be handled. They have also been advised of how to obtain further information.

## **4. FURTHER DEVELOPMENTS**

### **4.1 Records of Need: Transitional Arrangements**

Between 14 November 2005 and 13 November 2007 the authority must review all children who have a Record of Needs to see if they require a Co-ordinated Support Plan (CSP). This process will occur in parallel with the opening of new CSPs. Currently, there are approximately 350 children and young people with Records of Needs. The review process will focus on whether:

- ✓ a CSP is needed; or
- ✓ a CSP is not needed; or
- ✓ there has been a significant change in the child or young person's additional support needs.
- ✓

During the transition period and decision making process the level of provision must be maintained as agreed before the commencement of the new Act.

- 4.2** It is proposed that over the two years of transition, the following priorities for review should be established:  
Priority 1: children at the P3/P4 transition stage.

Priority 2: children at the P7/S1 transition stage.

Priority 3: children and young people S3 to S6.

Priority 4: transitions to adulthood.

Priority 5: those children and young people with shorter term needs or the significant involvement of only one agency.

Priority 6: any other child or young person.

It is intended that all cases within priorities 1 and 2 will be completed in Year 1, with the remainder being overtaken before the end of Year 2. Those children in priorities 3 to 5 will continue to benefit from their record being in place. A parent or young person will be able to request an assessment or review outwith these priorities, in which case it will be handled within the terms of the Code of Practice using the timescales that apply to such requests.

If a child or young person does not need a CSP the provision as stated in the Record of Needs will continue for two years from the decision date, as required by the terms of the Act. The standard appeals in relation to school exclusions and placing requests (see paragraph 4,5) and other formal routes for disputing a decision will continue to be available.

- 4.3** The Act gives the Authority powers, but not duties, to assess the additional support needs of children and young people who belong to its area but who are not educated in its schools or those of another Authority. Equivalent powers exist in relation to opening a CSP. Principally, these powers relate to children and young people educated at home (“educated otherwise”) or in independent schools. It is proposed that decisions on the exercise of these powers will rest with the Executive Director of Educational and Social Services who will consider each case individually, having regard to:
- ✓ the level and nature of the child’s additional support needs;
  - ✓ the learning environment chosen for the child by the parent; and
  - ✓ the principles of best value and the requirement to avoid unreasonable public expenditure.

A pre-requisite for consideration of the case will be the parent’s, and school’s, willingness to co-operate fully with the Authority’s established assessment procedures.

This new legal provision will require an amendment to the Authority’s advice to parents who choose to educate at home, together with related procedures.

#### **4.4 Placing requests**

New rights are also conferred on placing requests. Provided the child has additional support needs, a placing request can be made for:

- any school under the management of the authority, including a nursery school and a partnership provider where the authority has entered into arrangements for other persons to provide pre-school education.

- An independent or grant-aided special school in Scotland. Parents make the request to the education authority for the area to which the child belongs. Before doing so, they must ensure that the managers of the school are willing to admit their child.

Parents are not able to make a placing request under the Act for an independent or grant-aided school that is not a special school.

Additionally, parents of a child with additional support needs may make a placing request to the Authority for the area to which the child belongs for a school in England, Wales or Northern Ireland that makes provision wholly or mainly for children with additional support needs. Again, they must establish that the school is willing to take the child. There is no duty on the authority to comply with a placing request for a school outwith the UK. Section 25 of the Act gives the Authority the power to make “Such arrangements as they consider appropriate” to enable a child or young person with additional support needs to attend an establishment, which could be a school outwith the UK. The establishment has to make provision wholly or mainly for people having additional support needs.

The procedures on administration of placing requests will require to be amended in the light of these changes.

#### **4.5 Appeals**

The new Act preserves the rights of parents and young people in appeals against exclusion or Authority decisions in relation to placing requests. Such appeals will still be heard by an appeal committee established under the Education(Scotland) Act 1980. However, since Records of Needs will no longer be a feature of the education system, it follows that the existing provisions for appealing the contents of a Record of Needs to an appeals committee are no longer necessary and can be dispensed with in due course. The scheme of delegation therefore requires to be amended to reflect this change.

It is to be noted that, in specific circumstances for children with additional support needs, a refused placing request will be referred to the ASN tribunal rather than an appeal committee. This would be where there is an issue relating either to the CSP, or the lack of one. Appeal committee procedures will require to be changed as a result of this development.

### **5. POLICY/LEGAL IMPLICATIONS**

5.1 Nil

### **6. COMMUNITY PLANNING IMPLICATIONS**

6.1 Nil

## **7. FINANCIAL IMPLICATIONS**

- 7.1** There are no financial implications at this stage arising directly from this report. However, the legislation itself could bring considerable additional costs arising from the new responsibilities being imposed on the Authority.

## **8. RECOMMENDATIONS**

It is recommended that Members :

- (i) approve the arrangements for managing the transition from Record of Needs to Co-ordinated Support plans described in this report;
- (ii) agree that the Executive Director of Educational and Social Services is authorised to take decisions in relation to the assessment and provision for children with additional support needs or who potentially require a Co-ordinated Support Plan but who are not educated in a local authority establishment using the criteria in paragraph 4.3 of this report;
- (iii) ask the Executive Director of Educational and Social Services to review the authority's arrangements for placing requests and report to Committee in due course
- (iv) ask the Executive Director of Educational and Social Services to consider the implications of the new legislation for the authority's arrangements for educational appeals and report to Committee in due course;
- (v) ask the Executive Director of Educational and Social Services provide a future report on admissions to pre-school establishments taking account of the national code of practice; and
- (vi) otherwise note the contents of this report

**John Mulgrew**  
**Executive Director of Educational and Social Services**

**GRS/GRS**

**04 November 2005**

Members requiring further information should contact Graham Short, Head of Service: Quality Improvement, (01563-576089).

### **LIST OF BACKGROUND PAPERS**

- 1.** Supporting Children's Learning, National Code of Practice, SEED 2005
- 2.** Additional Support Needs Update, Education Committee 09 November 2004
- 3.** Additional Support for Learning Code of Practice, results of Consultation, Education Committee, 22 March 2005

**Implementation Officer: Graham Short**