

EAST AYRSHIRE COUNCIL

EDUCATION COMMITTEE – 7 NOVEMBER 2006

PLACING REQUESTS – IMPACT OF RECENT LEGISLATION

Report by the Executive Director of Educational and Social Services

1. PURPOSE

- 1.1** The purpose of this report is to advise Education Committee of the impact of the Additional Support for Learning (Scotland) Act 2004 on the administration of placing requests and the procedures of Educational Appeal Committees.

2. BACKGROUND INFORMATION

- 2.1** The Additional Support for Learning (ASL) Act came into effect on 14 November 2005. The Committee will be aware, from previous reports, that the legislation has had a significant impact on many aspects of the Education Services provision.
- 2.2** Schedule 2 of the Act sets out the impact on placing requests. Chapter 8 of the Code of Practice, issued by the Scottish Executive, provides further guidance.
- 2.3** A previous report to Committee on 8 November 2005 outlined the progress of the Act and briefly outlined its impact on the administration of placing requests and the Appeal Committee procedures.

3. IMPACT ON PLACING REQUEST ADMINISTRATION

- 3.1** The Act provides a greater scope for parents, or the young person where competent, to make placing requests. These can be summarised as follows :-
- parents of early years' children, with additional support needs, can now make a placing request to an establishment of their choice, including partner providers. Prior to the legislation coming into force this right was not available to the parents of pre school aged children.
 - School aged pupils with additional support needs have the right to submit a placing request to an independent school or grant maintained school within Scotland. This is providing that the management of the specified establishment have agreed to admit the young person and that the school is recognised as a special school.
 - Parents can also make a placing request to a school which makes provision wholly or mainly for pupils with additional support needs elsewhere in the United Kingdom. Although there is no duty for the Education Authority to accept a placing request to an establishment outwith the UK, section 25 of

the Act does provide the Authority with the option of making arrangements that they believe are suitable for the young person concerned.

- 3.2** Any cost incurred for placements to establishments which are not an education authority school, including both fees and other necessary costs such as transport, must be met in full by the authority.
- 3.3** As with the Education (Scotland) Act 1980 parents of young people with additional support needs can make a placing request at any stage of the child's education.
- 3.4** Various aspects can be considered when assessing competing placing requests. These include:
- Siblings attending the identified school;
 - Case of travel or proximity to the school;
 - Certified medical reasons

In addition it is proposed to introduce a further Council consideration which would result in a higher priority for those children who are resident in East Ayrshire, where all other factors are assessed as being of equal weighting. This consideration would only be necessary when there are more requests received than available places.

4. REFUSAL OF PLACING REQUESTS

- 4.1** The authority can refuse a placing request, made for or by a pupil with additional support needs, under the regulations set in the Education (Scotland) Act 1980. The new legislation also allows authorities to refuse a placing request in the following circumstances :-
- the specified school is not a public school;
 - the authority can make provision for the young person's additional support needs in another establishment, whether or not it is an establishment managed by the authority;
 - it is not reasonable in terms of the specified school's suitability and the cost to place the young person in that establishment; and
 - the young person has been offered a place in the school identified in point 2 (above).
- 4.2** In conjunction with section 15 of the Standards in Scotland's Schools Act 2000 local authorities may also refuse a placing request if placing a young person in a special school would breach the duty to provide mainstream education.

5. APPEAL COMMITTEE PROCEDURES

5.1 In addition to the traditional right of appeal through an Appeal Committee the parents of young people with additional support needs can also appeal to a Tribunal where there are issues surrounding the creation of a Co-ordinated Support Plan (CSP). This route to the Tribunal will come into force if :-

- the pupil has a CSP;
- it is recognised that the pupil requires a CSP but it is yet to be prepared; and
- the authority has determined that a CSP is not required.

5.3 When an Appeal Committee is notified of a referral to the Tribunal, in relation to a young person's CSP, the transfer of the placing request hearing must also be passed to the Tribunal. At this stage the Appeal Committee are not required to take further action in relation to the appeal until the Tribunal have made their decision in relation to the CSP.

5.4 The Tribunal may take the following action in relation to CSP and placing request :-

- confirm the authority's decision to reject the placing request;
- overturn the authority's decision and send the young person to the specified school, with the CSP being amended for the nominated school; and
- agree that a CSP is not required and refer the placing request back to the Appeal Committee.

5.5 If either the Appeal Committee or Tribunal uphold the placing request appeal the authority is under a duty to comply and meet any resulting costs in full.

5.6 As with placing request appeal procedures under the 1980 Act parents also have the right to appeal to the Sheriff Court, if an Appeal Committee rejects the appeal.

5. LEGAL/POLICY IMPLICATIONS

5.1 Changes to the Placing Request processes and systems will ensure that the Council complies with the Additional Support for Learning (Scotland) Act 2004 and the education (Scotland) Act 1980 as amended.

6. FINANCIAL IMPLICATIONS

6.1 Additional revenue costs may be incurred should placing requests to independent or grant maintained schools be appropriate and accepted.

7. COMMUNITY PLAN IMPLICATIONS

7.1 Nil.

8. RECOMMENDATIONS

8.1 It is recommended that the Education Committee:

- i) note the impact of the Additional Support for Learning (Scotland) act 2004 on placing request administration and Appeal Committee procedures;
- ii) agree to the proposed additional consideration for placing request criteria as detailed in paragraph 3.4; and
- iii) otherwise note the contents of this report.

Graham Short
Executive Director of Educational and Social Services

EC/JBS
18 October 2006

LIST OF BACKGROUND PAPERS

Additional Support for Learning (Scotland) Act 2004

Education Committee – 8 November 2005 (Agenda Item 10.2)

Any person who wishes any further information on this report should contact Euan Couperwhite, Head of Resource Support, Tel (01563 576090).

IMPLEMENTATION OFFICER : Euan Couperwhite, Head of Resource Support