

# Education, Children and Young People Committee

21 February 2024

## Additional Support for Learning

### Introduction

The Committee agreed to undertake an inquiry on Additional Support for Learning. The Committee agreed to focus on the following themes—

1. the implementation of the presumption of mainstreaming
2. the impact of COVID-19 on additional support for learning
3. the use of remedies as set out in the Act

In 2023, the Committee undertook two sessions specifically on ASL. One was on [behaviour in schools on 14 June 2023](#) and on [28 June 2023 the Committee](#) heard from the Scottish Government/COSLA's [Additional Support for Learning Project Board](#) which is tasked with taking forward the recommendations of the 2020 Morgan Report. The Committee agreed to undertake the present inquiry following those two sessions.

This will be the first formal session and the Committee will be focusing on themes 1 and 3 with the witnesses although the session may stray into theme 2. The Committee has already undertaken a range of work gathering written views which has resulted in a high number of responses from organisations and individuals. The Committee will have also undertaken two informal sessions with young people and parents/carers on 19 February. Given the volume of text Members are presented with, this paper is intended to provide a brief overview of the policy landscape in relation to the implementation of the presumption of mainstreaming and the use of statutory remedies.

This inquiry can be considered as post legislative scrutiny. Section 15 of the [Standards in Scotland's Schools etc. Act 2000](#), introduced a presumption of mainstreaming for all children and young people except under certain circumstances. The [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) sets out the wider duties local authorities have in supporting pupils with additional support needs.

# Implementation of the presumption of mainstreaming

Section 15 of the [Standards in Scotland's Schools etc. Act 2000](#) provides that education authorities will provide school education to all pupils "in a school other than a special school" unless one (or more) of the following circumstances arises—

- (a) would not be suited to the ability or aptitude of the child;
- (b) would be incompatible with the provision of efficient education for the children with whom the child would be educated; or
- (c) would result in unreasonable public expenditure being incurred which would not ordinarily be incurred.

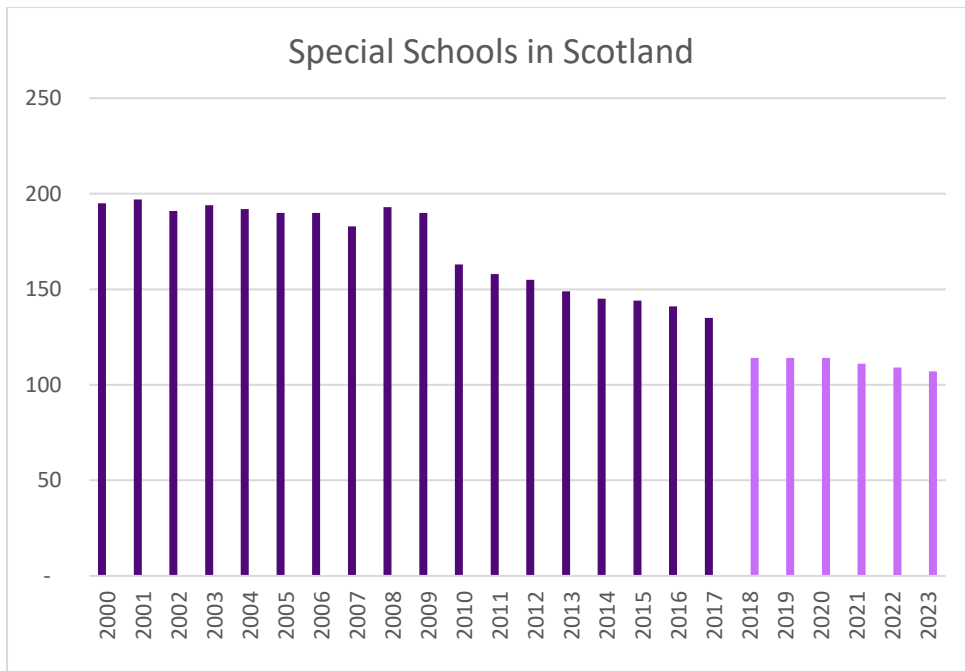
The 2000 Act says that "it shall be presumed that those circumstances arise only exceptionally". If one of the circumstances listed above is true, the education authority may provide education to child in mainstream education, but it "shall not do so without taking into account the views of the child and of the child's parents in that regard".

The 2000 Act applies to all children for whom the education authority is providing school education. The [policy intention](#) as set out in the Explanatory Notes to the 2000 Act was to "strengthen the rights of children with special educational needs to be included alongside their peers in mainstream schools." The benefits of an inclusive education system are considered to be broader than this. For example, a [2017 UNICEF document](#) stated that inclusive education—

- Improves learning for all children – both those with and without disabilities.
- Promotes understanding, reduces prejudice and strengthens social integration.
- Ensures that children with disabilities are equipped to work and contribute economically and socially to their communities.

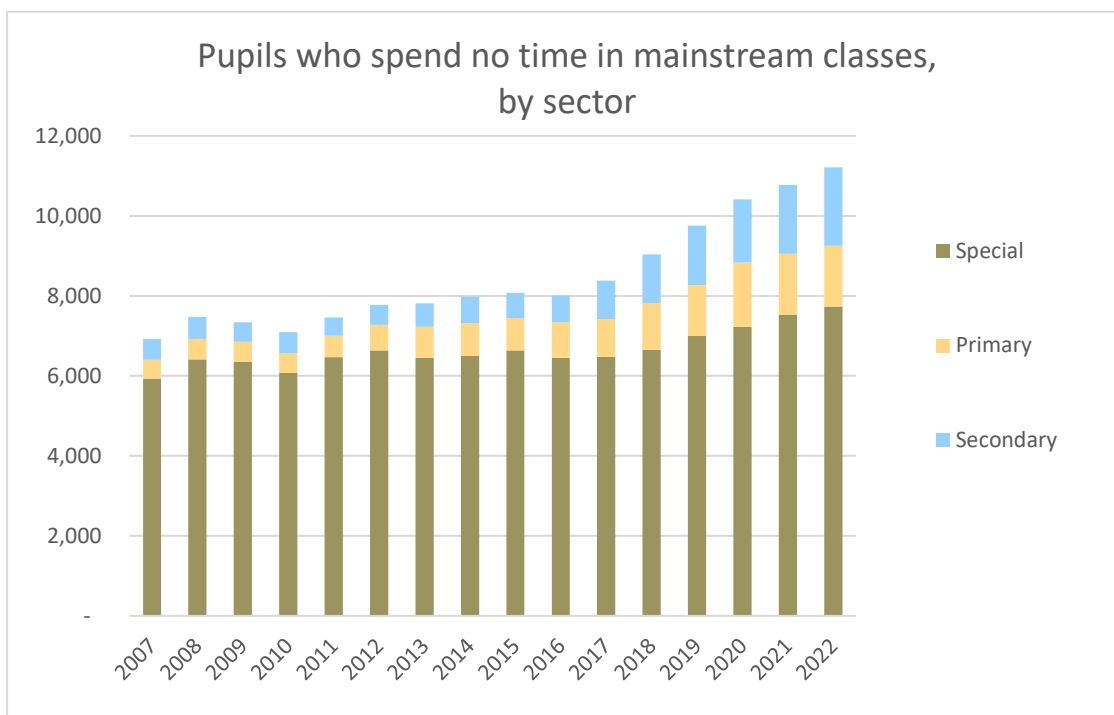
Since 2000, the approach to support pupils' educational needs has moved on. The approach now uses a definition of "additional support needs" which is very broad and encompasses more than a third of pupils and feasibly, at one time or another, could apply to every pupil. For the very large majority of pupils with or without ASN mainstreaming is not likely to be a question relevant to their education.

However, the growth of ASN units within mainstream schools makes the concept of the presumption of mainstream education somewhat more nuanced. The [statutory definition of a](#) "special school" includes either a school or "any class or other unit forming part of a public school which is not itself a special school" but is especially suited to the additional support needs of pupils. The charts below show the number of special schools in Scotland and the number of pupils who spend none of their time in mainstream classes.



Scottish Government, Pupil Census

\*Special schools with no pupils have been excluded from these figures from 2018 onwards. Figures for previous years have not been revised to reflect this change.



Scottish Government, Pupil Census

In considering these data we should note that the Government cautions that “there is not always a clear distinction [in the data collection] between special schools and special units or classes within a mainstream school.” There is long term decrease in the number of special schools reported in the national statistics and at the same time an increase in the number of pupils who spend no time in mainstream classes in all three sectors.

The total school roll across primary, secondary and special sectors in 2022 was

around 706,000. Around 1.6% of pupils spent no time in mainstream classes that year. 34% of all pupils in 2022 had at least one identified additional support need. The chart above shows the number of pupils who spend all of their time outside of mainstream classes. A small number of special school pupils spend part of the time in mainstream classes. In the secondary sector the number of pupils who spend part of the time in mainstream settings has increased substantially since 2016; from 1,603 to 4,577 in 2022.

## *2019 Guidance*

In 2019, the Scottish Government published [guidance on the presumption to provide education in a mainstream setting](#). This guidance says that mainstreaming “must be delivered within an inclusive approach.” The guidance reiterates the “four key features of inclusion” which are set out below along with “key expectations” that the guidance set out under each feature.

- Present
  - All children and young people should learn in environments which best meet their needs
  - All children and young people should be fully engaged in the life of their school, through the inclusive ethos, culture and values of the school
  - All children and young people should receive a full time education including flexible approaches to meet their needs
- Participating
  - All children and young people should have their voices heard in decisions about their education. Including decisions on where they learn
  - All children and young people will have the opportunity to participate and engage as fully as possible in all aspects of school or early learning and childcare life, including trips and extracurricular activity
  - All children and young people should be enabled and supported to participate in their learning
  - Children and young people with capacity are able to exercise rights on their own behalf.
- Achieving
  - All children and young people should be achieving to their full potential
  - All children and young people should have access to a varied curriculum tailored to meet their needs

- Supported
  - All children and young people should benefit from the ethos and culture of the school, inclusive learning and teaching practices and relationships
  - All children and young people should be given the right help, at the right time, from the right people, to support their wellbeing in the right place
  - All children and young people should be supported to participate in all parts of school life
  - All children and young people should be supported to overcome barriers to learning and achieve their full potential

The guidance identified eight “areas that are crucial in helping to develop inclusive practice in schools and early learning and childcare settings”. These are—

- Inclusive school values and ethos;
- Leadership;
- Constructive challenge to attitudes;
- Evaluation of planning process;
- Capacity to deliver inclusion;
- Parental and carer engagement;
- Early intervention, prevention and strong relationships;
- Removal of barriers to learning.

The guidance notes that choices about the type of education best suited to a pupil includes all the time in mainstream or specialist settings, or a mix of both. It also provides guidance on how to interpret the three statutory exceptions to the presumption of mainstreaming (outlined above).

## *Getting it right for every child*

GIRFEC is intended to provide a “consistent framework and shared language for promoting, supporting, and safeguarding the wellbeing of all children and young people.” It is intended to use an ecological model which says that child development “is influenced by the relationships they have with their parents, then by school and community environment, then by wider society and culture.” GIRFEC is intended to support different services to work together to support the child and their family. GIRFEC principles will inform schools’ considerations of how to support a child or young person. This may be support provided only by the school or by other statutory or third sector services. Schools may also use GIRFEC planning mechanisms –

normally a Child's Plan – although other plans may be used instead or as well.

## *2023 Pupils with complex additional support needs: research into provision*

In September 2023, the Scottish Government published research into “policy, practice, partnerships and the perspectives of parents, carers, children and young people in Scotland to explore the ways that pupils with complex needs are supported”. The context of this work was that it was undertaken 10 years after the publication of the Doran Review. The intention was that this research would help to inform Government policy and delivery to improve the educational experiences of children and young people with complex additional support needs. The Government has a [10-year \(2017-2026\) strategy on learning provision for children and young people with complex additional support needs](#). This includes work on “National Strategic Commissioning” for a variety of services and research.

The research report reflects the 10-year strategy and notes that "complex additional support needs" is difficult to define. Rather it uses a “working description” which is where a child has a CSP, a child who does not have a CSP but has been assessed as stage 3 or 4 by a local authority under a recommended staged intervention model; or those pupils that attend a grant aided or independent special school. The themes of the research closely match the themes from the Committee's call for views for the current inquiry. The research had four themes, and it also identified some cross-cutting themes, which are set out below.

### **Policy:**

- The research found that most school staff and parents had a high awareness of national policies relating to the support of children and young people with complex additional support needs
- Most participants believed that the intent of these policies is positive
- Some participants highlighted a perceived conflict between GIRFEC and the presumption of mainstream education

### **Practice:**

- Staff and relationships are reported by most parents, children and staff to be a key factor in enabling children and young people with complex additional support needs to thrive. This spans the relationships between school staff and the individual children they work with, school staff and families, and between school staff. Additionally, this includes leadership, which is seen as key to cultivating a supportive culture that many school staff respectively reported as key to enabling positive experiences for children and young people.
- Practice varies across Scotland, and this is perceived by some parents as a ‘postcode lottery’
- Many school staff and some pupils raised the importance of physical environment. Access to quiet spaces and to the outdoors to enable self-regulation were highly valued by both staff and children and young people.

- Many children and young people, parents, carers and staff reported the benefits when children and young people are able to have supported access to the local community. However, there were some reports of reduced ability to access the local community.

### **Partnerships:**

- Positive experience of partnerships and teams around a child in early years settings
- Perception of less access to specialist support from educational psychologists, speech and language and occupational therapists in recent years

### **Perspectives of parents, carers, children and young people:**

- Positive relationships with staff and a supportive friendship group at school were important factors in children's positive experience of school
- Positive experiences of transition support were reported

In addition, the research identified a number of cross-cutting themes:

- A perceived reduction in resources:
  - Many teachers, support staff, senior school staff, parents and stakeholders raised challenges experienced as a result of a perceived reduction in resources. This encompassed barriers to the implementation of policy, access to physical resources such as transport or specialist facilities, or changes in practice as a result of a reduction in staffing levels. It also included reduced access to partners from other sectors such as health. This is coupled with a perceived increase in the complexity of children and young people's needs, which was reported by many school staff, parents/carers and system stakeholders.
- The importance of staff:
  - Staff at every level were reported as integral to positive environments and experiences for children and young people with complex additional support needs.
  - Many participants involved in partnership working reported that individual staff make the biggest difference in how effectively partnerships work.
- Placements:
  - There was a perception amongst some parents and school staff that national policy regarding placements is not always implemented as it is intended. It was reported by some parents, staff and pupils that a successful or unsuccessful placement has wide repercussions on individual children, other pupils in the same placement, and families.

- The importance of training:
  - There was recognition by participants of the positive impact that training can have, but also of the challenges in accessing it
  - There was also recognition amongst many staff of the value of learning from peers and children and young people

The report concluded that “policy alone cannot deliver positive outcomes for children and young people”. The report said that it had found “many examples of good practice that have enabled children with complex additional support needs to flourish”. These examples were found across different settings and “notable examples include where specialist provision was co-located with a mainstream setting, and integration was consistently occurring between these settings.” The report argued for a tailored and flexible approach to meet the needs of children with complex needs. The report identified four themes that are integral to delivering such an approach. These were:

- Resourcing, in particular in relation to staffing;
- The brilliant, committed and supportive nature of staff surrounding pupils;
- Where children are placed for their schooling; and
- Robust training for all providers who interact with children with complex additional support needs.

The Scottish Government has not formally responded to this report. The [Government has said that the findings](#) of the report will inform ongoing work.

## *Morgan Review*

In 2020, the Scottish Government published [Angela Morgan’s review of the implementation of the additional support for learning](#).

A key part of the Review is about values and culture. The Review highlighted the importance of public services working collaboratively with parents who will advocate for support for their children. It said—

“For committed staff, endeavouring to maintain their professional integrity, the key delivery conditions already noted, are essential. Where openness and transparency are not in place, the risks are of a culture of blame and/or a culture that lacks robust accountability for practice with vulnerable children and young people. These are significant issues, which are extremely uncomfortable to raise. They must be aired and considered. Not to ascribe fault or blame, but to assist in understanding the fundamental problems that this Review has been established to consider.” (p28)

The Review was concerned with communication, good relationships and kindness in public service. The Review set out four Key conditions for delivery. These are—

- Values driven leadership;



- An open and robust culture of communication, support and challenge – underpinned by trust, respect and positive relationships;
- Resource alignment, including time for communication and planning processes; and
- Methodology for delivery of knowledge learning and practice development, which incorporates time for coaching, mentoring, reflection and embedding into practice. (p27)

Ms Morgan gave evidence to the Session 5 Committee on her report on [8 November 2020](#). She highlighted three main conclusions to the Committee. These were:

- additional support for learning is not visible and is not equally valued within Scotland’s education system
- mainstream education should be redefined to reflect the needs of pupils who have additional support needs in the context of rising numbers of pupils identified as having ASN
- there is too narrow a view of learning in school education

The second bullet reflects a key change that the concept of mainstream school should be updated to reflect the needs of all children, and that provision should be flexible and child-centred. This is a shift from focusing on additionality to focusing on universal provision that meets everyone’s needs.

Following the Morgan Review, the Scottish Government and COSLA agreed to an Action Plan to take forward the recommendations. The Government has published updates on the Action Plan in [October 2021](#) and [November 2022](#).

## Covid and its impacts

The Committee has heard about the continuing effects of Covid and the policy responses on children and young people. For example, a submission prior to the session on behaviour in schools on 14 June 2023 from Dr Joan Mowat along with Dr Gale Macleod said—

“There has been an extensive literature emanating from international organisations (such as the World Health Organisation, UNICEF, the OECD), academia, government, the 3rd sector and commentators (such as the Children’s Commissioners in England and Scotland) which has highlighted the devastating impact of the pandemic on the mental health and wellbeing of children and young people. There is general consensus that the pandemic has served to exacerbate existing inequalities with the most vulnerable CYP being most at risk from long-term effects.”

During the Committee’s work on behaviour in schools, several witnesses identified the pandemic as a potential cause for increasing levels of distressed and unacceptable behaviour in schools. The EIS’ submission to that meeting said that its

members had seen greater levels of distressed behaviour from young children in P1 and P2.

[In February 2023, the Committee received a letter from the Royal College for Speech and Language Therapists](#) which suggested that there is a “spoken language crisis” and said that research indicates that there has been “a significant increase in communication needs in children since the start of the pandemic.”

The Scottish Government’s 2021 [Coronavirus \(COVID-19\) education recovery: key actions and next steps](#) included a section on work being undertaken to support health and wellbeing of pupils. This listed a number of interventions supported by Scottish Government funding, such as school counsellors. The [recovery plan’s section on ASN](#) noted, among other things, funding for pupil support staff. The “Next steps” part of the section on ASN focused on the work implementing the Morgan Review.

## **Statutory remedies and parental involvement and engagement**

The session 5 [Education and Skills Committee’s legacy report](#) stated that its successor committee may wish to explore “the operation of and access to ASN tribunals”. This inquiry has been drawn more widely, looking at the range of statutory remedies parents/carers and pupils in relation to ASL.

Teachers, schools and local authorities ought to seek to ensure that the parents/carers of pupils are involved and engaged with their child’s learning and with the school community. Parental involvement is about the ways in which parents can get involved in the life and work of the school. Parental engagement is about parents’ and families’ interaction with their child’s learning. Parental engagement is a “key driver” in the National Improvement Framework and Improvement Plan. In 2022, [Education published a Strategic Framework for Parental Involvement, Parental Engagement, Family Learning and Learning at Home](#) and all teachers are expected to “establish opportunities for parents/carers to participate in decisions about their child’s learning” under the GTCS’ Standard for Full Registration.

### ***ASL Plans***

For children with complex additional support needs, there is likely to be a formal planning process and parents/carers and pupils should be meaningfully involved in that process.

In 2022, the 241,639 children who had an identified additional support need, 1,401 had a co-ordinated support plan, 32,898 had an Individualised Educational Programme, and 49,200 had a Child’s Plan. Pupils could have more than one plan.

## Co-ordinated support plan

The only statutory plan in school education is the Co-ordinated Support Plan under the 2004 Act and associated regulations. Local authorities have a statutory duty to put in place a CSP if the statutory conditions are met. These are that a child has longstanding ASN arising from one or more complex factors or multiple factors which require significant additional support to be provided by more than one service. The CSP is seen as particularly important as it can open up additional routes of redress through the ASN tribunal (more on this below). The [statutory guidance on the 2004 Act states](#) that local authorities must “seek and take account of the views of children and their parents, and young people themselves” throughout the process of determining whether a CSP is required and then developing the CSP. CSPs must contain (among other things):

- the education authority’s conclusions as to the factor or factors from which the additional support needs of the child or young person arise
- the educational objectives intended to be achieved taking account of those factors
- the additional support required to achieve these objectives
- details of those who will provide this support.

After concerns that CSPs are under-used in local authorities, a short life working group was established and this [reported in November 2021](#). This found “variations in awareness and understanding of the legislation, support and planning process” including in the purpose and statutory requirements on local authorities. The SLWG’s made recommendations around:

- culture and relational approaches
- the availability and accessibility of information and guidance for children, young people, parents, carers and professionals
- ensuring sufficient resource is needed to provide time for genuine collaboration and multi-disciplinary planning and to support the delivery of agreed outcomes for children and young people

## Individualised Educational Programmes

Individualised Educational Programme (IEP) is a tailored, individualised plan or programme of support which is expected to last up to a year. Learning targets within the plan are usually of multiple months or termly duration and this plan is reviewed. This plan may also be known as an additional support plan, or other similar name. The ASL statutory guidance states that an IEP is single agency plan to ensure that supports from the resources within the school or education authority are put in place to meet the pupils’ needs.

## Child's Plan

Child plans are single or multi agency plans based on an assessment guided by the Getting it Right for Every Child National Practice Model. Again this is a non-statutory plan.

Guidance states that “all decision-making regarding a child’s plan within GIRFEC should seek, have regard to and act on the views of the child or young person and their family.” The child’s plan should set out:

- which services or people will provide support
- who is accountable for that support; and
- the way in which that support will be provided

## *Dispute resolution*

Where disputes arise, there are a number of statutory provisions to support dispute resolution and remedies.

These are—

- Right to have a ‘supporter’ present in discussions or an ‘advocacy worker’ make representations to the local authority, the local authority does not have to pay for this. (s.14 2004 Act)
- Right to an advocacy services, free of charge, for those taking cases to the Additional Support Needs Tribunal (s.14A)
- Independent mediation, free of charge (s.15)
- Independent adjudication, free of charge (regulations under s.16)
- A Tribunal for certain issues involving Co-ordinated Support Plans, placing requests and disability discrimination cases under the Equality Act 2010. (s.17). The full list of grounds for references to the Tribunal are given in s.18 of the 2004 Act.

The Scottish Government provides support to Enquire which is the national service which provides advice and information about additional support for learning legislation and guidance for families and professionals.

**Ned Sharratt, Senior Researcher (Education, Culture), SPICe Research 9 February 2023**

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