

Executive Note

The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 SSI/2005/518

The above instrument was made in exercise of the powers conferred by sections 11(8) and 34(2) of the Education (Additional Support for Learning) (Scotland) Act 2004 and of all other powers enabling them in that behalf. The instrument is subject to negative resolution procedure. It replaces and revokes the Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Regulations 2005/266.

Policy Objectives

This instrument fulfills the commitment given by the Executive to the Parliament's Education and Subordinate Legislation Committees to bring forward an amendment to the above instrument before commencement of the Act and in drafting that amendment to have regard to the Committees' helpful comments.

The comments included those in relation to the inclusion of the superfluous reference in regulation 3 (contents of a co-ordinated support plan) to primary legislative provisions and this has now been deleted.

The Executive was also grateful to the Committee for its comments on the drafting of regulation 5 time limit for review of the plan, which has now been re-drafted with a view to clarifying the drafting.

As the above instrument is not as yet in force, the Executive believe that it would be of assistance to users to replace the Regulations laid in May 2005 in their entirety. This instrument therefore revokes the previous instrument. A copy of the earlier Executive Note is attached for reference.

Consultation

No formal consultation in view of the commitments given by the Executive to the Parliament's Committees.

Financial Effects

As with the Executive's assessment of the earlier regulations, the instrument has no financial effects on the Scottish Executive, local government and Health Boards or business.

The financial effects of co-ordinated support plans were set out in the Financial Memorandum accompanying the Education (Additional Support for learning) (Scotland) Bill (SP Bill 11).

Scottish Executive Education Department
October 2005

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Policy Objectives

The 2004 Act replaces the system for assessment and recording of children and young people with special educational needs with a new framework around additional support needs. Additional support needs are defined more broadly than special educational needs.

A small number of children and young people with additional support needs arising from enduring complex or multiple factors, for whom the education authority are responsible for providing school education, and who require significant additional support from local authorities beyond their education functions or from another appropriate agency such as a health board, will receive a co-ordinated support plan ("CSP").

The co-ordinated support plan is a statutory strategic planning document which will be subject to regular monitoring and review for those children and young people who meet the criteria.

Section 9(2) of the Act provides that a co-ordinated support plan must contain certain information, including 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 sought to be achieved taking account of those factors, the additional support required to achieve those objectives and those who will provide this support.

Section 11(8) of the Act allows Scottish Ministers to make further provision in regulations about co-ordinated support plans, including in particular provision about the form and additional information to be included over and above that already required under section 9(2), and timescales and procedures in relation to managing those plans.

The regulations prescribe the form and content of the co-ordinated support plan, the time limits and exceptions to those time limits to be complied with in preparing and reviewing the plan, the keeping, transfer, disclosure and discontinuance of the plan.

Form and content

The regulations require that the co-ordinated support plan contains details in addition to that required by the Act. The additional information includes are biographical and contact details of the child or young person, contact details for their parent(s) or those adults who have, or share, responsibility for the care of the child or young person, a pupil profile, parents' and child's/young person's comments on any aspects of the plan process or the plan itself. The plan also has to contain a review timetable for the plan.

The co-ordinated support plan must be in the form set out in the Schedule to the regulations or a form substantially to the same effect.

Following a review under section 10 of the Act the co-ordinated support plan must contain the amendments made, if any. An education authority must also retain any information from the original plan as the authority considers relevant to the future provision of additional support for the child or young person.

Time limit for preparation of the plan

An education authority will have 16 weeks in which to produce a completed co-ordinated support plan. The time limit starts from the date the education authority informs the child's parents or the young person of their intention to establish whether the child or young person requires or would require a co-ordinated support plan. The period ends when the education authority give the parents or the young person a copy of the completed plan. The education authority must also notify the parents, the young person or the managers of an independent or grant-aided school if it is decided that a co-ordinated support plan is not required.

Time limit for the review of the plan

The Act requires that the co-ordinated support plan must be formally reviewed at least every 12 months. An education authority must have completed the review within 12 weeks from either the expiry date specified in the Act and noted in the co-ordinated support plan or from the date when the Authority inform the child's parents or the young person of its proposal to carry out an earlier date if an earlier review is thought appropriate under section 10(3) of the Act. The review is completed when the education authority give the parents or the young person a copy of the plan as continued with such amendments as the authority considers necessary or appropriate. If, following review the authority concludes that a co-ordinated support plan is no longer required, the education authority must notify the parents or young person of that decision.

Time limit exceptions

While an education authority will be expected to take all reasonable steps to ensure that the time limit for completing a co-ordinated support plan and for reviewing it are complied with, there may be circumstances outwith the education authority's control which make compliance impracticable. The regulations set out the circumstances where it would be considered impracticable for an education authority to meet the prescribed 16 week or 12 week time scales.

When an education authority become aware that the time limit is unlikely to be met, they must explain to the child's parents or the young person the reason for this and must set a new date for completion of the process. The Regulations state that the new date should not exceed the original 16 weeks or 12 weeks by longer than is necessary in the circumstances and should not exceed a period of 24 weeks after the notice of proposal to establish whether a co-ordinated support plan is required is sent or 20 weeks where the plan is being reviewed.

Keeping the plan

The Act already provides for a child's parents or a young person to receive a copy of the co-ordinated support plan. The Regulations require the education authority to keep a copy of the co-ordinated support plan, which they prepared, in a place the authority consider appropriate and must be available for inspection there by the parents or young person free of charge during normal business hours. In addition, a copy of the co-ordinated support plan must be kept at the school the child or young person attends.

The co-ordinated support plan will form part of the child's or young person's Pupil Progress Record in terms of regulation 10(3) of the Schools General (Scotland) Regulations 1975.

Transfer of the plan

The regulations provide for what happens to a co-ordinated support plan when a child or young person moves to another authority area.

The education authority who prepared the co-ordinated support plan must transfer it to the new education authority within 4 weeks from either the date the education authority has been notified that the child or young person will be moving or, if the child or young person has already left the area, from the date the education authority becomes aware the move has taken place.

From the date of transfer, the co-ordinated support plan is deemed to have been prepared by the receiving authority. Until the new authority reviews the transferred plan that authority is bound by the terms of the co-ordinated support plan. The new authority are responsible for notifying as soon as reasonably practicable the parents, young person and any person named in the plan as providing additional support, of the transfer and for informing them that responsibility for the co-ordinated support plan and providing for the additional support needs of the child or young person rests with the authority.

The new education authority should at the same time inform the parents or young person of the co-ordinator for the plan and the name of the person from whom the parents or young person can obtain advice and further information within the new authority.

Disclosure of the plan

The co-ordinated support plan is a confidential document but for it to be effective the plan or information in it will require to be shared with a range of people depending on the individual circumstances of the child or young person. In accordance with the Regulations a co-ordinated support plan cannot be disclosed by the Education Authority without the permission of a child's parent's or a young person unless one of the exceptions specified in the Regulations apply. The regulations set out the persons to whom education authorities can disclose a copy of the co-ordinated support plan or extracts from it without seeking the explicit consent of the child's parents or the young person.

Discontinuance, retention and destruction of the plan

Where a co-ordinated support plan is to be discontinued following a review, or where the education authority are no longer responsible for the child's or young person's school education, the discontinued plan must be retained for a period of 5 years from the date of discontinuance.

If the plan is to be discontinued following a review, the education authority must inform the child's parents or young person of their decision. The education authority must not discontinue the plan before the expiry of any prescribed period during which the parents or young people can refer the decision to the Additional Support Needs Tribunal. The Scottish Ministers have powers in paragraph 11(2) of Schedule 1 to the Act to prescribe a time limit for references to the Tribunal of certain decisions, information or failures under section 18(3) of the Act.

At the end of the 5 year retention period, the co-ordinated support plan must be destroyed. The education authority should notify the child's parents or the young person that this has happened, if the whereabouts of the parents or young person are known to the authority.

Where an Additional Support Needs Tribunal overturns the education authority's decision to prepare, or continue, a co-ordinated support plan, the education authority must notify the child's parents or the young person when the plan will be discontinued and ask them to let the authority know within 21 days whether they want the plan to be retained for a period of 5 years or not. If the answer is yes then the plan must be retained. If the answer is no, or there is no response, the education authority must destroy the plan and let the parents or young person know this has happened.

The education authority must also notify any person named in the plan as providing additional support and such other persons as they consider appropriate of the discontinuance of the plan and its date.

During the period that the plan is retained, the provisions on disclosure in regulation 10 apply.

Consultation

The regulations were published in draft form for public consultation from 29 November 2004 until 25 February 2005. The consultation generated 435 written responses from across local authorities, NHS Boards, voluntary organisations, further education colleges, Careers Scotland, parents and individuals, schools, school boards, professional bodies and CoSLA. In addition to the written consultation, the Scottish Executive held fourteen consultation seminars in venues across Scotland including seminars on Orkney, Shetland and the Western Isles. The seminars were attended by around 1000 delegates and included representatives from all of the groups mentioned above.

Financial Effects

The instrument has no financial effects on the Scottish Executive, local government and Health Boards or business.

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Scottish Executive Education Department
May 2005