

Scottish Education - Legislative and Policy Framework Summary

Scotland has a wide range of legislation to support inclusion and equality in education. These promote a child centred approach to encourage every child to reach their 'fullest potential'. Our legislation ensures rights and entitlements for children and young people to education, support and wellbeing. There is a range of legislation and educational policies which place duties and expectations on schools and local authorities to ensure that they:

- Deliver an inclusive education
- Support learners to achieve to the best of their ability
- Do not discriminate against those with protected characteristics
- Provide assessments when requested.

Children's rights and entitlements are fundamental to Scotland's approach to inclusive education. It is supported by the legislative framework and key policy drivers including, Curriculum for Excellence, the getting it right for every child approach and the Framework for Professional Standards for teachers. These are underpinned by a set of values aligned to social justice and commitment to inclusive education.

The legislative and policy framework place duties and expectations on schools and local authorities to ensure that they deliver an inclusive education and do not discriminate against those with protected characteristics. Some examples of legislation and guidance that supports inclusion and equality in education are highlight below and explained in further detail.

- Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002
- Scottish Schools (Parental Involvement) Act 2006
- Education (Additional Support for Learning) (Scotland) Act 2004, amended 2009
- The Equality Act 2010
- The Children and Young People (Scotland) Act 2014
- The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill 2021

Guidance

- Supporting Children's Learning: Code of Practice (Revised Edition) 2017
- Updated Presumption of Mainstreaming Guidance

range of services and agencies in order to meet the needs and promote the wellbeing and potential of all children and young people. Key to this is a consistent single planning approach for children who require additional support from services, a Named Person for every child and a holistic understanding of wellbeing. In addition to the Named Person children who have complex needs may also have a Lead Professional to coordinate their care. In some cases, the Named Person will also take on the role of the Lead Professional, but this role could be taken on by any person who is closely involved with the child and their family, so could be from any agency. Under this legislation there are new duties placed on schools and other public bodies to focus on improving broader wellbeing outcomes for children. Following a legal challenge the Named Person part of the legislation has been removed but is still considered to be good practice with the proviso that information-sharing legislation is followed.

http://www.legislation.gov.uk/asp/2014/8/pdfs/asp_20140008_en.pdf

Select the BBC news link for further information. [What happened to the named person scheme? - BBC News](#)

The Equality Act 2010

This Act brings together and extends the existing UK equality legislation. The Act introduced protected characteristics (for example a person's disability, race, ethnicity, religion and sexual orientation) for which discrimination is unlawful. The Act places specific duties on public bodies (including schools) and individuals to prevent discrimination, harassment and victimisation. In relation to schools this includes, for example, making reasonable adjustments to the school environment, teaching methods, assessment procedures and school trips to ensure that learners with protected characteristics (or learners associated with others who have these protected characteristics) are not discriminated against. Further guidance specifically for education providers, produced by the Equality and Human Rights Commission, can be accessed at

[Equality Act \(2010\) | Research | National Improvement Hub \(education.gov.scot\)](#)

[What equality law means for you as an education provider – Schools | Self-evaluation | National Improvement Hub](#)

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill 2021

The Bill aims to ensure that:

- children's rights are respected and protected in the law in Scotland
- public authorities are legally required to respect and protect children's rights in all the work that they do

The Bill aims to do this by incorporating the UNCRC into the law in Scotland. This means children's rights are legally protected. Children, young people and their representatives can

use the courts in Scotland to enforce their rights. The Bill seeks to make sure children's rights are part of everyday life in Scotland.

[Human rights: Children's rights - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Guidance

Supporting Children's Learning: Statutory Guidance on the Education (Additional Support for Learning) Scotland Act 2004 (as amended) - Code of Practice (Third Edition) 2017

This is the third edition of the code and replaces all previous versions. This third edition takes account of the amendments in the 2016 Act which extended certain rights to children aged 12 and over 15. It explains the duties on education authorities and other agencies to support children's and young people's learning. It provides guidance on the Act's provisions as well as on the supporting framework of secondary legislation.

Education authorities and appropriate agencies, such as NHS Boards, are under a duty to have regard to the code when carrying out their functions under the Act. The code is designed to help them make decisions effectively but cannot be prescriptive about what is required in individual circumstances. Education authorities and appropriate agencies must ensure that their policies, practices and information and advice services take full account of the legal requirements of the Act.

The code includes brief case studies and examples of good practice with reference to the Getting it Right for Every Child (GIRFEC) approach and Curriculum for Excellence framework to illustrate some of the processes involved in applying the Act's main provisions. These do not offer definitive interpretations of the legislation since these are ultimately a matter for the courts.

[Additional support for learning: statutory guidance 2017 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Updated Presumption of Mainstreaming Guidance

This guidance aims to bridge the gap between legislation, policy and day-to-day experience, ensuring that children and young people have equitable access to a quality education which meets their needs and helps them achieve their full potential.

[Presumption to provide education in a mainstream setting: guidance - gov.scot \(www.gov.scot\)](http://www.gov.scot)