Welcome to the second edition of my newsletter. With August heralding the return to school I have focused on some of the issues that face parents and carers of children with additional support needs of any sort. At this time of year the news is flooded with articles about the costs involved in sending children to school, and the increasing number of parents and carers who struggle to meet them. The Scottish Government have been very clear in their ambition to tackle the effects of pupil poverty – but how is that working in practice? In this issue I look at the progress made so far and ask whether more could be done. On a more practical note my ‘How To’ considers who is eligible for, and how to apply for, a school uniform grant. This varies across the country, so it is worth checking with your local authority. In most areas, there is still time to apply.

Finally, back to school represents an opportunity to review pupils’ healthcare needs. This edition sets out a reminder of the legal obligations on schools to make provision for the needs of, and make reasonable adjustments for, children with healthcare issues. If you have any problems accessing this assistance from your school, Enquire – my ‘Support Spotlight’ partner this quarter – are well placed to advise.

So welcome back – I hope you enjoyed the unusually good summer weather this year – and I hope that this newsletter helps settle you into the new academic year.

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» Pupils, Poverty and Policy: Is the Government’s Attainment Challenge working?
» Additional Support for Healthcare in Schools
» How To: Apply for a School Uniform Grant
» Support Spotlight: Enquire

Catch up with me here...

» 5th September 2018 Kindred Transitions Event, Edinburgh
» 24th October 2018 Differabled Exclusions Event, Glasgow
» 21st September 2018 CALM Training Seminar, Alloa
» 7th October 2018 Dyslexia Scotland Conference, Glasgow
» 11th October 2018 RFPG Seminar, Glasgow
» 31st October 2018 Holyrood Event, Edinburgh
» 1st November 2018 Scottish Child Law Centre Masterclass, Edinburgh

Iain Nisbet
Education Law Consultant
In July this year, the Education and Skills Committee published their report ‘What support works? : Inquiry into attainment and achievement of school children experiencing poverty’.

The primary focus of the Inquiry was to find out how poverty impacts children in school education, and how schools and other services mitigate this. The first hurdle faced was accurately measuring the extent of deprivation in Scotland. Current deprivation measures (the Scottish Index of Multiple Deprivation and the free school meals register) are not free from error. There is concern that they may under-report poverty, particularly in rural areas. Nonetheless, they currently provide the best estimate of child poverty in Scotland, and the evidence gathered by these methods was that it is increasing. The Government is looking at ways to measure this more effectively, but with an indication that more children are being affected by poverty than ever before, the efficacy of support measures becomes even more important.

The report indicates that the three most prominent poverty barriers to attainment are:

1. Cost of the school day – charging for school activities.
2. Hunger
3. Uniforms

Poverty as an Additional Support Need

Poverty is not only a barrier to attainment, in some circumstances it may give rise to an additional support need in terms of the Education (Additional Support for Learning) (Scotland) Act 2004. This has been recognised in recent amendments to the Standards in Scotland’s Schools etc Act 2000. Both the Scottish Ministers (s3A) and education authorities (s3B) are now obliged to exercise their functions in a way which is designed to reduce inequality of outcome which arises from ‘socio-economic disadvantage’.

Bridging the Gap

One way of reducing this inequality is through the Attainment Challenge, ongoing in Scotland since 2015, and specifically the provision of Pupil Equity Funding (PEF) – which has seen additional funds put into schools since 2017. A recent review of PEF found that the rules surrounding it were misunderstood, and could be preventing effective support reaching those that need it. However, measuring its impact is difficult as some schools who do not receive high levels of PEF are undertaking valuable work to tackle the impact of poverty from core budgets. Conversely, there is a fear that PEF money is being spent on activities that should be met by core funding, and thus measuring the impact it is having on attainment is complex. The Government has been carrying out yearly evaluations of the Attainment Challenge, a breakdown of spending from PEF, the Attainment Scotland Fund and core budgets needs to be carried out.

Also passing control to schools for the allocation of their PEF money has meant that headteachers are being asked to carry out tasks that they previously have not done. Little or no training has been provided to them to enable them to more effectively identify a need, and commission the services required to meet it.

Critically, guidance from the Government about employing more teachers with PEF money has been confused leaving headteachers unsure when they can use the money to fund PEF teachers and when they cannot. Teachers focused on raising attainment for those in need is critical to closing this gap, and proper guidance is required to ensure that, where allowed, teachers are recruited. This assumes that there are teachers there to recruit, which with the current staffing crisis is not a given.

That said, there are many success stories with funding being used to tackle barriers directly. North Lanarkshire Council, for instance, now offers free meals during holidays and Glasgow plan to extend the provision of free school meals to all pupils up to primary 4. In relation to uniforms, the Scottish Government have announced that clothing allowances should now be a minimum of £100 a year – with Glasgow City Council increasing their allowance to £110 for the school year 2018/2019. Further steps such as reducing the number of school uniform items required by schools would also reduce the burden on families and is recommended by the Committee.

Community Support Critical to Success

Tackling the attainment gap is not all about what happens in school though, and the report identifies ways of encouraging and supporting children through community-based support and youth work, and by encouraging parental involvement.

While the measures in place now are not the complete answer, the recommendations from this report, along with the regular monitoring of the impact of initiatives such as the Attainment Challenge, illustrates the commitment that the Scottish Government has to eradicate this problem. Carry on in this vein, and the next Committee review could be reporting improved marks for the Government.
In this back to school newsletter, our Support Spotlight features Enquire - the Scottish advice service for additional support for learning – and their new information guide to supporting children with healthcare needs in school. This is an important issue for children and young people, and those that care for them, and is one that the Scottish Government has recently highlighted with the publication of their guidance ‘Supporting children and young people with healthcare needs in schools’ at the end of 2017.

**Legislative and Policy Changes**

The rate of legislative and policy change in Scotland relating to the welfare and support of young people has meant that the previous guidance - which focused on administering medicines in schools - failed to reflect the more inclusive approach to educational support in Scotland. Healthcare needs can create a barrier to education if they are not properly assessed and, where necessary, appropriate adjustments and support put in place.

The 2013 case of Callum Wyper serves as a good reminder of the barriers children can face when they have a long-term healthcare condition. Callum, then a seven-year-old schoolboy, became the first child in Scotland to raise the issue of discrimination in the context of the administration of medicines. Callum has type 1 diabetes and required help during school hours to manage his condition and assistance with his insulin injections. The local education authority had been relying on volunteers from the school staff to support him, and other pupils, with their healthcare needs. However, a lack of volunteers meant that Callum had to be kept out of school for two months so that his condition could be properly managed. The Additional Support Needs Tribunal found that the education authority had unlawfully discriminated against Callum in relation to his disability. Further, it ruled that recruiting support staff who were tasked and trained to administer medicine was a reasonable adjustment to make.

The new Government guidance places healthcare need in the same category as other learning disabilities and recognises that unless education authorities respond accordingly, they could severely disrupt a child’s learning journey; potentially facing a disability discrimination case as a result.

**Supporting Children and Young People with Healthcare Needs**

This new guidance sets out to ‘act as a guide to the strategic and operational matters which should be considered as part of policy development’. It is aimed at all those involved in the delivery of health services including NHS boards, education authorities and schools.

Its founding principles embed the concept of adequate healthcare provision firmly within the inclusion framework and highlight the need for collaboration between services, and the rights of the child or young person in self-determining their healthcare plan.

**The Founding Principles**

1. The rights, wellbeing, needs and circumstances of the individual child or young person should, at all times, be at the centre of the decision-making process.
2. NHS boards, education authorities and school staff should work collaboratively to ensure individuals receive the service that they need in the way most appropriate to their needs.
3. All children and young people have a right to education on the basis of equal opportunity and are entitled to support in their learning.
4. Staff in NHS boards, education authorities and schools should work together with the children and young people concerned, their parents or carers and families to ensure healthcare needs are met within all schools.
5. There should be planning, and resources agreed, particularly about the reasonable adjustments that may be required.
6. Schools should make arrangements for staff providing healthcare to children to be properly trained.

7. Assistance with intimate care may be needed at any time, and schools should have arrangements in place to deal with these needs quickly and with respect for children’s privacy, dignity and rights.

How does this work in practice? And what should you expect if your child suffers from a healthcare issue that requires monitoring and treatment during the school day?

Supporting Children in Schools

While a policy framework should have been agreed by the NHS board and education authority on supporting health care needs in school, schools will require to apply this to their pupils. Specific school arrangements may cover:

» Who is responsible for supporting the healthcare needs?
» Any arrangements that may differ to that of the education authority.
» Who is responsible for staff training?
» Emergency procedures.
» Details of centrally held medical equipment.
» Storage and access to medicines in the school.
» Who is responsible for the safety of pupils’ self-management of their conditions.
» Arrangements for keeping staff fully up to date with pupils’ healthcare needs.

Individual Healthcare Plans

If your child has a long-term healthcare need then you should ensure that they are assessed by an appropriate health practitioner (usually a community paediatrician or community children’s nurse) and, if a healthcare plan is required, then all services should work together with the child, and their parents or carers, to draw it up. This should ensure continuity in treatment at home and school.

An individual health care plan may include:

» Details of the condition or symptoms;
» The impact that this has on the child or young person;
» Details of medication, dosage, side effects and storage information;
» The healthcare support/procedures;
» Whether learning support is required;
» Special requirements, e.g. dietary needs, pre-activity precautions, access to facilities and other reasonable adjustments etc.;
» Who is responsible for providing the support;
» Arrangements for staff cover;
» What to do, and who to contact, in an emergency;
» Training needs, how often these should be reviewed and who will deliver the training;
» Consent;
» Arrangements for support if the child or young person needs to attend regular hospital appointments or spend time in hospital;
» How often and when the plan should be reviewed;
» Consideration of existing emergency plans, such as Anticipatory Care Plans.

What is essential, however, is for the plan to take into account the fact that a healthcare need should not create a barrier to education, and consideration requires to be given to the impact the health need has on a child’s learning and wellbeing. Consideration should, therefore, be given to whether the child would benefit from an individualised learning plan or a Co-ordinated Support Plan.

Supporting Healthcare Needs in Practice – Reasonable Adjustments

A long-term health need is likely to be classed as a disability under s6 of the Equality Act 2010. Where a child or young person has a healthcare need that impacts on his or her learning or well-being the school will need to consider what reasonable adjustments can be made to avoid or minimise a substantial disadvantage to disabled pupils.

Assessing risk does not mean that risk needs to be eliminated, but risk management of a chronic health condition should be an on-going process throughout school life. Where safety permits, children with healthcare needs should have the opportunity to be included in school trips and outdoor learning; sporting activities and work placements.

The EHRC Technical Guidance for Schools in Scotland provides some useful examples of what the Equality Act 2010 may require of schools in relation to pupils with healthcare needs (see paras. 5.49 and 6.50). The guidance stresses that “The purpose of the duty to make reasonable adjustments is to enable disabled pupils to have access to an education as close as is reasonably possible to the education offered generally to pupils”.

Step-by-Step

For a step by step guide to what support you, and any child in your care, should expect at every stage of your school journey, Enquire’s factsheet is an ideal guide. It includes what you should do if you think that your child, or young person’s, needs are not being adequately met.
All schools have a uniform policy – that is a policy about the clothing that is to be worn to school. While that may vary from local authority to local authority, most will include branded sweatshirts and blazers alongside standard shirts, trousers and shoes. This drive by schools to give their school identity, and children pride in belonging, can become a barrier to education for children in low-income households. Although it was recently estimated by the Government that the average cost of a school uniform in Scotland is £129.50; many parents are spending as much as £360 to keep their children appropriately clothed.

Help is at Hand

If you receive certain benefits, you are entitled to apply for a grant from your local authority to help cover these costs. Who is eligible, and how much the grant is worth, is left to the discretion of the individual local authority. This has resulted in a huge variance in the value of awards, with some authorities offering as little as £20 per child. However, this year the Scottish Government has stepped in to apply a minimum value for the grant that all authorities must implement. The grant is partly funded by the Government, and partly by the local authority, and the minimum to be applied is £100. All but one have combined the funding streams into a one-off payment, with Inverclyde providing a £100 grant, and a top-up from the Scottish Government later in the term.

Local authorities still have the discretion to exceed the minimum grant set down by the Scottish Government, however, out of 32 local authorities only five have opted to do so:

2. Stirling Council - £130
3. Falkirk Council - £120
4. Glasgow City Council - £110

Eligibility

The eligibility criteria varies from authority to authority, as do the time limits for the application. In general, however, the local authority websites are straightforward to navigate and provide application forms to either fill in online or provide options for collection of a hard copy. This year payment is also, in general, made directly into your bank account, and many authorities do not require a new application if you have applied in a previous year and receive housing benefits or a council tax reduction.

Additional Resource

As there are no universal rules which apply to this application process, my website has a unique guide that details the grant amount; the eligibility criteria; application close date and a link to the application form in an attempt to simplify the process.

Finally, remember all authorities have ultimate discretion in the provision of these grants. If you find yourself in hardship, with the grant not covering all your child’s uniform costs, you can apply for more. In the case of Shaw v Strathclyde Regional Council 1988 SLT 313 the court confirmed that an education authority’s duty to make provisions for families who are suffering hardship is not discharged by the provision of uniform grants alone (although that is a good first step). If a family cannot afford to clothe their child on the basis of that grant, then they have the right to request a further payment, which should be made if it is needed.

To find out more please visit my [facebook page](http://www.facebook.com), [website](http://www.example.com) or send me a [tweet](http://twitter.com).
With the right support all children can get the most from school

As a parent you want your child to feel confident, have friends, learn and enjoy their school experience. For a lot of children this happens, and school is a positive part of their childhood, but for some children school can be a struggle.

If you’re worried your child needs more or different support to help them get the most from school, help is available from Enquire – the Scottish advice service for additional support for learning.

Enquire aims to help families make informed decisions about their child’s education and support. We do this by providing advice and information that:

» explains your child’s rights to support in school
» helps you understand how support is planned and your rights to be involved in decisions about your child’s support
» helps you work with your child’s school and resolve disagreements if they arise
» signposts you to local education and support services

**Finding the right information for you**

Enquire’s website, ([www.enquire.org.uk](http://www.enquire.org.uk)), has lots of advice about how to get the right support for your child or, if you are not happy with the support they are getting, how you can raise concerns with the school. It also explains the steps you can take if your concerns are not addressed or what to do if your child is missing out on their education.

Use the website to download or order a copy of Enquire’s free Parents Guide to Additional Support for Learning. The guide is a handy tool to support you as your child moves through school.

You can also download one of Enquire’s factsheets which provide easy to understand information about all of the most common topics parents ask us for help about including:

» Additional support and disability rights
» Assessments
» Placing requests
» Exclusions and school attendance
» Transport to school
» Children’s learning plans
» Resolving disagreements

We have two new factsheets which focus on:

» Children’s rights to education and additional support in school
» Supporting children and young people with healthcare needs in school

**Helpline**

If you want to talk to somebody about additional support for learning you can call Enquire’s helpline on 0345 123 2303. Experienced advisors can listen to your questions or concerns, give you the information you need or offer steps you can take to resolve any issues you are having.
What do parents say?

Parents who have contacted us or used our information say they feel better informed, more confident and more able to talk to the school about their child’s needs or any concerns they have.

“Enquire are amazing. I’ve been dealing with the school for years trying to get the right support in place and I couldn’t have done it without you.”

“Enquire has frequently been my first port of call. I also recommend to everyone who is struggling with education and their rights. Thank you”

“Your Parents’ Guide is my bible. As soon as I read it I felt so much better. I use it all the time.”

Enquire also has advice for children and young people

www.reach.scot offers advice to children and young people struggling at school. With practical tips on what can help and children and young people sharing their views and experiences on all sorts of issues that affect them, Reach offers a ‘go-to’ source of advice to help pupils make the most out of their education.

Helping children be involved in decisions about their education and support

As of January 2018, the rights of children with additional support needs who are aged between 12 – 15 have been extended to make sure their views are listened to and they are properly involved in decisions about their learning and support.

Specifically, once children reach their 12th birthday they now have the right to ask for their needs to be identified, have input into plans and be involved in decision-making about the support they receive. Children now also have a right to an advocate to support them when using their rights.

A new children’s service – My Rights, My Say – has been set up to help children use their rights. Enquire are partners in My Rights My Say along with Children in Scotland, Partners in Advocacy and Cairn Legal. The service can support children to find out about and take up their new rights through advice and information, advocacy and legal representation.

Children can find out more or ask for help via the Reach website. The address is www.reach.scot/myrightsmysay

Parents, carers and practitioners can find out more or ask for help on behalf of their child through the Enquire website www.enquire.org.uk/myrightsmysay

For any questions regarding children’s rights or My Rights, My Say contact the Enquire helpline on 0345 123 2303.