



# Education (Additional Support for Learning) (Scotland) Act 2004

## 2004 asp 4

### *Supporters and advocacy*

#### **14 Supporters and advocacy**

- (1) Where, in connection with the exercise of an education authority's functions under this Act in relation to any child or young person, the relevant person wishes—
- (a) to have another person (referred to as a “supporter”) present at any discussions with the authority for the purpose of supporting the relevant person in the course of those discussions, or
  - (b) another person (referred to as an “advocate”) to—
    - (i) conduct such discussions or any part of them, or
    - (ii) make representations to the authority,on the relevant person's behalf,
- the education authority must comply with the relevant person's wishes, unless the wishes are unreasonable.
- (2) In subsection (1), “the relevant person” means—
- (a) in the case of a child, the child's parent,
  - [<sup>F1</sup>(aa) in the case of a child who has attained the age of 12 years and who the authority is satisfied has capacity in relation to discussions or representations as mentioned in subsection (1), the child,]
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) if the authority are satisfied that the young person lacks capacity to participate in discussions or make representations as referred to in subsection (1), the young person's parent.
- (3) Nothing in subsection (1) is to be read as requiring an education authority to provide or pay for a supporter or advocate.

*Changes to legislation: There are currently no known outstanding effects for the Education (Additional Support for Learning) (Scotland) Act 2004, Cross Heading: Supporters and advocacy. (See end of Document for details)*

#### Textual Amendments

- F1** S. 14(2)(aa) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\), s. 33\(2\), sch. para. 13;](#)  
[S.S.I. 2017/354, reg. 2\(a\)](#)

#### Commencement Information

- II** S. 14 in force at 14.11.2005 by [S.S.I. 2005/564, art. 2](#)

### [<sup>F2</sup>14A [<sup>F3</sup>Provision of advocacy service: First-tier Tribunal]

- (1) The Scottish Ministers must, in respect of [<sup>F4</sup>proceedings before the First-tier Tribunal], secure the provision of an advocacy service to be available on request and free of charge to the persons mentioned in subsection (2).
- (2) The persons are—
- (a) in the case of a child, the child's parent,
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) where the young person lacks capacity to participate in discussions or make representations of the type referred to in subsection (3), the young person's parent.
- (3) In subsection (1) “ advocacy service ” means a service whereby another person conducts discussions with or makes representations to the [<sup>F5</sup>First-tier Tribunal] or any other person involved in the proceedings on behalf of a person mentioned in subsection (2). ]

#### Textual Amendments

- F2** S. 14A inserted (14.11.2010) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2009 \(asp 7\), ss. 10, 26\(3\); S.S.I. 2010/277, art. 2](#)
- F3** S. 14A title substituted (12.1.2018) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Additional Support Needs Tribunals for Scotland\) Regulations 2018 \(S.S.I. 2018/4\), reg. 1\(1\), sch. 2 para. 3\(4\)\(c\)](#)
- F4** Words in s. 14A(1) substituted (12.1.2018) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Additional Support Needs Tribunals for Scotland\) Regulations 2018 \(S.S.I. 2018/4\), reg. 1\(1\), sch. 2 para. 3\(4\)\(a\)](#)
- F5** Words in s. 14A(3) substituted (12.1.2018) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Additional Support Needs Tribunals for Scotland\) Regulations 2018 \(S.S.I. 2018/4\), reg. 1\(1\), sch. 2 para. 3\(4\)\(b\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Education (Additional Support for Learning) (Scotland) Act 2004, Cross Heading: Supporters and advocacy.