



Additional Support Needs

DECISION OF THE TRIBUNAL

Reference

1. This is a reference by the appellant seeking amendments to a co-ordinated support plan (**CSP**). The reference is made under section 18(3)(d)(i) of the Education (Additional Support for Learning)(Scotland) Act 2004 (**2004 Act**).

Decision

2. I require the respondent to make the following amendments to the CSP under section 19(4)(b) of the 2004 Act within 7 days of the date of this decision, or by such other date as the parties may agree:
 - a. The amendments currently incorporated into the draft CSP at R037-042.
 - b. The addition of two supports in the 'Additional Support Required' column against the educational objective stating 'For the young person's health to be optimum to promote her engagement to her learning' as follows:
 - (i) Access to a quiet space to work.
 - (ii) Provision of a lift pass, to avoid the need to use stairs.
 - c. In the final support listed under the second educational objective, namely the one worded 'To improve the young person's physical capacity and independence regarding her mobility, to enable her to access the curriculum and school life', replace the words 'directly from' with 'that are issued by'.
 - d. Add two supports to the end of the supports listed in the 'Additional Support Required' column of the CSP, against the second educational objective, namely the one worded 'To improve the young person's physical capacity and independence regarding her mobility, to enable her to access the curriculum and school life', as follows:
 - (i) Access to a wheelchair provided by the Mobility and Rehabilitation Service, when needed during school time.
 - (ii) Access to a pulpit frame, when needed during school time.
 - e. Add a new educational objective as follows:

To secure a positive transition to post-school opportunities for the young person.

f. Add the following text to the 'Additional Support Required' column of the CSP against the new educational objective as set out in paragraph e. above:

Continuing liaison with the following: social work services, the Linking Education and Disability service (LEAD Scotland), North East Scotland College and Skills Development Scotland.

Continuing supporting the young person in making her College application.

Continuing supporting the young person in her application to Social Work services for self-directed support.

Liaising with the local occupational therapy service to the extent necessary for any environmental assessment planning for the young person's post school destination.

Liaising with the young person and her parents on a regular basis about post-school options and arrangements.

g. Add, in the 'Persons Providing the Additional Support' column the following text against the new educational objective specified in paragraph e. above:

Mr and Mrs G
Education staff

Process

3. The reference was made in April 2024.
4. The parties were in discussions (including during a mediation) until December 2024, when the respondent produced a further draft CSP. The parties continued discussions, leading to a further draft CSP produced in February 2025 (R037-050). That is the current version of the CSP the respondent proposes. The appellant proposes that this version of the CSP is amended in a number of respects.
5. During a case management call (**CMC**) that took place in March 2025, the parties agreed that the reference should be decided without a hearing under rule 37(1) and (2)(d) of the First-tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (Schedule to SSI 2017/366) (**the rules**), following the lodging of written submissions and any further documents by April 2025. The parties confirmed their agreement to this course of action in writing following the CMC, as is required under rule 37(2)(d).
6. I considered all of the written material in the bundle, consisting of the following page numbering: T001-081; A001-042; and R001-068, including the parties written submissions. I proceeded to make this decision alone, as is required under rule 37 of the rules.
7. The appellant argues that reliance solely on the Information and Assessment Evidence pro-formas completed by professionals and lodged by the respondent should be avoided (A023, paragraph 16). I placed no weight on the answers to the CSP criteria questions in those pro-formas, with the exception of those in response to the question about

whether the needs of the young person are likely to continue for longer than a year. The professionals completing these documents do not have the legal knowledge required to understand the meaning of what are complex statutory tests. Examples of this are the statutory definitions of 'complex factor' and 'multiple factor' in section 2(2) of the 2004 Act, neither of which are free from complexity, even if those asked to complete the proformas were aware of them. Indeed, those definitions relate to the effect of such factors on school education, something a non-education professional is presumably unable to comment upon. Also, the definition of 'additional support' (in section 1(3)) is not intuitive (and is related only to education), and only additional support needs are relevant to the CSP test. The relevant information is the detail of the support required (not necessarily the same as the support being provided) and how long the needs giving rise to that support are likely to remain in place. That is the information needed to then (using legal knowledge) decide if the test for a CSP is met, and whether certain content is required.

Findings in Fact

8. The appellant is the young person's mother. The young person has diagnoses including: Chronic Migraine, Developmental Coordination Disorder Disorder of Attention and Motor Perception, Visual Stress and Autism Spectrum Condition with associated Social, Emotional and Behavioural needs.
9. The young person is enrolled in school A, a school managed by the respondent. She is in secondary year 6 there. Due to upcoming examinations, the young person's school education is due to end in May 2025.
10. The young person has a CSP, made in March 2021. During the latest review of the CSP, the respondent produced a draft CSP which was sent to the appellant in March 2024. The appellant was dissatisfied about the content of that draft, and made this reference. Following discussions between the parties, including during a mediation, the respondent produced a further draft CSP in February 2025 (R037-050).
11. The young person's condition means that her knees dislocate with no warning. This causes the young person severe pain. When this happens, an ambulance must be called to take her to hospital to have her knee reset. This happens on an almost daily basis. The young person has had an operation on her left knee to assist with this. She was due to have a similar operation on her right knee in April 2025. The young person's rehabilitation from that operation will be regulated by a post-surgical plan which her consultant surgeon will prepare.
12. The young person uses a wheelchair and a pulpit frame to assist with mobility. These aids were provided on the advice of the local physiotherapy and mobility and rehabilitation services. Since she is over 16 years old, the young person comes under the adult physiotherapy service. That service does not usually liaise with schools.
13. The young person receives support from the local physiotherapy service twice per week, by way of clinic appointments.
14. School A is currently assisting the young person with her post-school transition. The young person does not know yet where she would like to transition to. School A staff are liaising with a number of agencies such as social work services, the Linking Education and Disability service (LEAD Scotland), North East Scotland College and Skills Development Scotland. School A staff are assisting the young person with her application to the social work service for self-directed learning, and with her College

application. There remains uncertainty around the post-school transition planning required following the young person's recent operation plans.

Reasons for the Decision

15. The parties agree that the young person has additional support needs, as defined in section 1 of the 2004 Act. I agree, as supported by my findings in fact at paragraphs 8 and 11-14 above.
16. The appropriate point in time for consideration of the evidence is at the date of my decision: the law is clear on this.
17. The appellant proposes six amendments to the most recent draft CSP (R037-050). Since that draft makes amendments to the CSP currently in place, I am ordering that the amendments already incorporated into the most recent draft CSP are made (paragraph 2a. above).
18. The appellant is clearly unhappy about a number of aspects of the young person's education, as outlined in her most recent witness statement (A036-042). However, I may only consider the evidence and argument as it relates to the CSP changes sought by the appellant in the written submission (A020-027). I have therefore restricted my decision and reasons to these.

General comments on the tests for a CSP

19. Before coming to the individual proposed amendments, I will make a few general comments about the content of CSPs, since these are relevant to some of the amendment proposals.
20. The tests for the making of CSPs are set out in section 2 of the 2004 Act. There are a number of references to the 'needs' of the child or young person (sections 2(1)(b)(c) and (d)). A need is an additional support need if the support needed falls within the definition of 'additional support' within section 1(3) of the 2004 Act.
21. Support relevant for inclusion in a CSP requires to come from two types of source. The two source types are either (a) the local authority providing education as well as in the exercise of a non-educational function (section 2(1)(d)(i)); or (b) the education authority providing education as well as at least one appropriate agency (section 2(1)(d)(ii)).
22. The Upper Tribunal has recently made it clear that the significance requirement in line 1 of section 2(1)(d) applies to each of the two sources (although, where there is support from more than one appropriate agency, that support is accumulated for the purposes of the significance requirement): *Aberdeenshire Council v CD's Legal Representative* 2023 SLT (Tr) 95, per Lady Poole at paragraphs 17-20 and 27.
23. There is no specific requirement within section 2 of the 2004 Act for a need for co-ordination between the two required sources of support. Instead, the need for co-ordination appears to arise from the provision of support from two sources. It appears to be assumed that if there is a need from two sources, there is a need for co-ordination of the provision of additional support. On one view, if Parliament had intended that the support from both sources needs to be co-ordinated, it would have said so.

24. However, the title of section 2 is 'Co-ordinated support plans', and the Inner House in *JT v Stirling Council* [2007] SC 783 made it clear that in considering the meaning of 'significant' in section 2(1)(d), regard must be had to whether there is a requirement for co-ordination (paragraph 18 of the decision). This requirement was highlighted by Lady Poole more recently in *Aberdeenshire Council v CD's Legal Representative* 2023 SLT (Tr) 95 at paragraph 17. Further, there is some statutory support for this approach. CSPs must come in the form set out in legislation: The Additional Support for Learning (Co-ordinated Support Plan)(Scotland) Amendment Regulations 2005 (SSI 2005/518) (**the regulations**). Regulation 3(1) requires that every CSP must be set out in the form provided in the Schedule to the regulations or in a form substantially to the same effect. In that form in the Schedule, under the 'Educational Objectives' column, the following text appears in brackets:

here set out the educational objectives that require co-ordination of support for the child/young person taking account of the factors that give rise to additional support needs.

25. This wording confirms the need for co-ordination between the two source provision types not only generally but in relation to each of the educational objectives. The **Code of Practice** (*Supporting Children's Learning: Statutory Guidance on the Education (Additional Support for Learning)(Scotland) Act 2004* (as amended), Third Edition, 2017) indicates that the educational objectives in a CSP should be ones that require to be co-ordinated (page 83, paragraph 49), and this matches with the wording above from the statutory template CSP. The Code goes on to discuss this further, at paragraphs 56 and 57:

56.....What is important is that the plan contains those educational objectives which require the various forms of support to be co-ordinated, if the educational objectives are to be achieved. For example, a teacher and speech and language therapist may need to ensure their support is well co-ordinated, if the educational objectives to be achieved are related to improving the communication skills of a child with an autism spectrum disorder; a teacher and residential social worker may need to work together, to ensure that a child looked after away from home is able to complete schoolwork assignments outwith school.

57. The educational objectives in the co-ordinated support plan must take account of the factor or factors giving rise to the child's or young person's additional support needs. The objectives will require the co-ordination of services if they are to be achieved. Children and young people will always be working to achieve other learning outcomes which are not documented in the plan and these will be outcomes which do not depend, for their achievement, on the level of co-ordination of support required by the plan. For example, a particular child with a co-ordinated support plan may have intended learning outcomes set for, say, language and mathematics and, apart from the usual support from the family, the school may feel that these will be achieved without any support from other agencies. These learning objectives will be documented through other school planning arrangements, such as personal learning planning, an individualised educational programme, or another approach used by the school and will not be listed in the co-ordinated support plan.

26. Although the tests for a CSP are normally discussed in the context of whether or not a CSP should be prepared, they are also relevant where the parties disagree on the content of a CSP: that content must be such that it requires to feature in the CSP.

27. On the required content of CSPs, this is set out in section 9(2) of the 2004 Act, and in particular the meat of the document is as provided for in section 9(2)(a). These provisions are supplemented by the provisions as to content of CSPs in the regulations, made under section 11(8) of the 2004 Act. The Code of Practice sets out some guidance on what should be included in the 'Additional Support Required' section of the CSP at page 85, paragraph 60:

60. The...plan must describe the additional support required to achieve the educational objectives stated...The additional support will cover teaching and other staffing arrangements, appropriate facilities and resources, including information and communications technology, and any particular approaches to learning and teaching or forming positive relationships. It will also include any provision made outwith the educational setting but which will contribute to the child or young person achieving his/her educational objectives.

28. Against this background, I will now consider each of the appellant's six proposed amendments.

Proposed amendment (1)

29. The appellant argues that three supports (access to a quiet space, a lift pass and a flexible learning approach), listed in the 'Factors giving rise to additional support needs' part of the proposed CSP should (also) be listed in the 'Additional Supports Required' section of the first and second Educational Objectives.

30. The appellant argues that the wording in the Code of Practice about the need for co-ordination on the educational objectives (discussed at paragraph 24 above) applies to the educational objectives in the CSP and not to the additional supports required column content (paragraph 14, A022-023). The respondent argues that the points identified do not require ongoing and significant multi-agency support and so would not form an educational objective within the CSP (paragraph 1, R032-033).

31. I prefer the appellant's approach. The main unit of currency in a CSP (as far as the need for co-ordination goes) is the educational objective. Some of the examples given in the Code of Practice for the additional support required section of the CSP (above, paragraph 25) are supports that could only be provided by the education authority exercising its educational function. I agree with the respondent that the support referred to in the proposed amendment would not form an educational objective in itself, but once the educational objective in respect of which co-ordination is required is formed, all of the support needed to meet that objective must be included in the 'Additional Support Required' section. If the requirements of significance and co-ordination had to be applied to each item of additional support identified, this would add a layer of significant complexity to the analysis of the content of a CSP, and would unduly restrict their content. There is no suggestion, in the wording of section 2((1)(d) of the 2004 Act, that the support from the different sources should be individually analysed. Instead, the intention is that they are considered together.

32. The section of the CSP 'Factors giving rise to additional support needs' should contain a list of the complex factor(s) or multiple factors that give rise to the young person's additional support needs, including any diagnoses and descriptions of personal circumstances (Code of Practice, paragraph 53, page 83). The reference to a quiet space and a lift pass for the young person appears in this section of the draft CSP. They

are, properly regarded, not such factors, but instead are supports that the respondent is providing to the young person.

33. I am content that access to a quiet place and a lift pass are supports related to the first and second educational objectives respectively, and that there is ample evidence that they are required, not least since they are listed as supports in the CSP already (albeit not listed as such). I agree with the appellant that the quiet space support should fall under the first educational objective in the draft CSP and the lift pass should appear against the second educational objective. I therefore order that the relevant amendments specified in paragraph 2.b. above are made.
34. The appellant also argues for the addition of the support of a 'flexible learning approach' to be added against an appropriate educational objective. I assume this reference comes from the 'Profile' section of the draft CSP which refers to a 'flexi schooling arrangement', or perhaps it is a reference to the arrangements in place for the young person more generally. Whatever its origin, I decline to order its inclusion as an additional required support. It is too general in its scope. It represents an approach to learning, not a support. Even as an educational objective it would be too broad, as those require to be sufficiently precise to know when it has been achieved (Code of Practice, paragraph 58 on page 85).
35. On a related point, the appellant's observation that recourse to the Tribunal is only available in relation to supports listed against the educational objectives is correct: this is clear from section 18(3)(d)(ia) of the 2004 Act, which refers back to section 9(2)(a)(iii).

Proposed amendment (2)

36. The appellant seeks what is essentially a factual correction to the CSP content in relation to an operation on the young person's right knee. It is not disputed that the young person was due to have such an operation in April 2025, a week after the written submissions were received (paragraphs 15-17, A023).
37. While the young person may have had that operation by now, I do not see the need to order a change to the draft CSP to essentially update it. The appellant does not argue for any associated change, and a CSP will not always be completely up to date. As the respondent points out (paragraph 2, R033), the support needed following any operation on the young person's right knee will not be clear until after any operation on it happens.

Proposed amendment (3)

38. The appellant seeks an addition to the CSP requiring the respondent to commit to physiotherapy support following the young person's surgery (a reference in particular to the surgery that was due to take place in April 2025, paragraphs 18-20, A023-025). The appellant is concerned about the source of instruction for physiotherapy support since the physiotherapy team dealing with the young person do not work with schools as they are the adult physiotherapy team.
39. The respondent argues (R033, paragraph 3) that the content of the draft CSP on this point is sufficient and that school staff continue to request advice and guidance from physiotherapy.

40. In his witness statement, the physiotherapist, states that a post-surgical plan will be provided by the young person's consultant and that her rehabilitation will be dependent on the consultant's post-surgical instructions (A012, paragraph 9).
41. The evidence does not exist for any substantive change to the CSP content in this area. There is a general commitment in the CSP to take into account recommendations from the physiotherapy department. In the absence of evidence of specific support (such as a post-surgical plan) it is not clear what that support should consist of, relating to a particular educational objective.
42. However, given that there is a potential issue around communication, I take the view that the words 'directly from' in the final support listed under the second educational objective should be replaced with 'that are issued by'. This removes the reference to the means of communication of the recommendations, while retaining the reference to their source. This means that any recommendation falling within the description mentioned in the CSP passed onto education staff by, for example, the appellant will fall within that part of the CSP. This is the basis for the change at paragraph 2.c., above.

Proposed amendment (4)

43. The appellant seeks an amendment to the CSP to require the respondent to commit to implement any occupational therapy (OT) advice relating to the young person (paragraphs 21-22, A025).
44. The respondent refers to the 'Information and Assessment Evidence' pro-forma completed by the occupational therapist, in December 2024 (RB054-056). I note also the witness statement provided by the occupational therapist at A18-019, dated July 2024.
45. The respondent refers to the need for support to be maintained for 12 months (R034, paragraph 4). This refers to the question in the pro-forma 'Will support at this level be maintained for 12 months?', to which the OT answered 'No' (R056). However, this is not a question that is relevant to the test for a CSP or its content. The test is not whether the support will be needed for 12 months; instead it is the needs that require to be likely to continue for at least 12 months (2004 Act, section 2(1)(c)). Also, the needs are not to be measured by professional discipline, but as a whole: 'those needs' in section 2(1)(c) are the additional support needs mentioned in section 2(1)(b). Further, it would appear that the respondent has accepted that the test in section 2(1)(c) is met, since it has prepared a CSP. Once that is accepted, the respondent may not revisit that part of the test to measure it against the support (or even the needs) arising from each professional discipline. In this way, the final question in the respondent's pro-forma does not accurately reflect the statutory test. I note that earlier in the pro-forma, the correct question is posed (question 2). The final question is unnecessary.
46. However, in this particular case, there is insufficient evidence to justify the inclusion of OT support against the educational objectives. There is no current evidence of a need for such support, except for an environmental assessment at college; that is something that should be included as part of the young person's transition planning (see below).

Proposed amendment (5)

47. The appellant seeks the addition of the young person's need to use a wheelchair and pulpit standing frame as additional supports required. These supports are mentioned in

the current draft CSP under the 'Factors giving rise to additional support needs' section (paragraphs 23-28, A025-026).

48. The respondent makes two arguments here (R034, paragraph 5).
49. Firstly it argues that no agency is taking responsibility for the wheelchair and pulpit frame. I am not clear on the connection between this fact (assuming it to be correct) and the content of the CSP. If these supports have been provided, and are specified in the CSP, I do not see why the lack of agency responsibility prevents them being specified as required supports.
50. Secondly, the respondent argues that the supports are not included against an educational objective since 'they do not have ongoing and significant multi-agency support'. On the ongoing point, I understand that this equipment is currently available, as seems clear from the appellant's statement (paragraphs 9-10 at A038). That makes the support ongoing, since the support is the provision of the equipment. On the multi-agency element, as noted above (paragraph 27) the support does not need to be from more than one source, the co-ordination element relates to the educational objective.
51. It is clear that this support relates to the second educational objective. Since that support is specified in the CSP and there is evidence that it is needed to meet the young person's additional support needs (for example, see the OT's pro-forma response at R055, physiotherapists at R058, at the letter dated November 2023 from the Principal Teacher of Additional Support for Learning at T019 and the appellant's most recent witness statement at paragraphs 9 and 10, A038), it is appropriate to record those supports in relation to that educational objective. This is the basis for the changes at paragraph 2.d., above.

Proposed amendment (6)

52. The appellant seeks the addition of a new educational objective relating to the young person's transition to post-school opportunities (A025-026, paragraphs 23-28).
53. The respondent in its written submission sets out the work school A is carrying out in relation to post-school transition (paragraph 6, R034-035).
54. The transition support that the young person can receive from the respondent is important and there remains time to provide it. As far as inclusion of that support in the CSP is concerned, that time is limited to the period during which the young person is being provided with school education. This is since one of the conditions for a CSP being required is that an education authority is responsible for the school education of the young person (2004 Act, section 2(1)(a)). This means that the young person must be being provided with a school education for the obligation in a CSP to apply (see the definition in section 29(3) of the 2004 Act).
55. That does not mean, however, that even at this late stage in the young person's education that the CSP should not set out the support she needs, especially when the respondent accepts that it will provide that support. The fact that the respondent does so accept means that I can infer that this support is needed. I can also infer it from the available facts, including the young person's desire to attend College and from the evidence of her additional support needs generally. The OT liaison is limited to any such contact as is needed to ensure that arrangements can be made for any college assessment, as will be required according to the evidence (the OT's pro-forma at R056).

56. I have taken the transition work currently underway from the respondent's written submissions (paragraph 6, R034-035), and added a more general one about liaising with the young person and her parents, which is obviously required. The appellant suggested adding some general text around team hosting meetings, preparing, documentation, sharing information, facilitating discussion and providing appropriate equipment with the relevant services in support of the young person's transition. However, some wording around the specific transition work underway is preferable, since the wording should be as specific as possible and based on evidence of what may be provided.

57. I agree with the appellant that an additional educational objective is needed, and I have framed one, based on the submissions of the appellant, the evidence more generally, and the respondent's acceptance of the supports the young person will receive. This all led me to the changes ordered in paragraphs 2(e)-(g), above.

Paragraphs 8 and 11 in this decision have been edited by the Chamber President for reasons of privacy under rule 55(3)(b) of the First-Tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018.