

Briefing: Healthcare Needs in Schools

Background

The Scottish Government is currently reviewing national guidance on meeting the healthcare needs of children and young people in schools. Previously known as Administration of Medicines¹, the new title, Healthcare Needs in Schools, reflects the fact that schools are increasingly required to meet children's complex medical needs, including medical procedures, in both mainstream and specialist settings.

The current guidance dates from 2001 and precedes important legislative changes. We welcome this review and hope that the new guidance will provide clear and practical guidelines on meeting children's healthcare needs in schools.

Increasing survival rates amongst premature babies and children with serious or rare medical conditions mean more of these children attend school² and increasingly they are attending mainstream schools³. Conditions such as type 1 diabetes are being diagnosed earlier. This is good news – fewer children are dying and earlier diagnosis significantly improves both short and long term outcomes for children⁴. However, meeting these needs can present a challenge for schools and a failure to meet them can prevent children from attending school or returning after a period of illness. This shouldn't be the case. Schools are expected to provide a similar level of medical care as parents provide for their children in their own home – procedures which do not need to be performed by a medical practitioner.

Research conducted by this office in 2013 showed that children's needs are not always met in school and that, in some cases, children were prevented from attending schools because of a failure to meet their healthcare needs⁵. One in ten school staff reported being unable to respond to a request for administration of medication⁶. One of the chief causes of this is also one of the challenges facing schools in meeting needs – a reliance on volunteer staff to meet these needs.

¹ [The Administration of Medicines in Schools, Scottish Government, 2001](#)

² [Strategic Commissioning for Services for Children with Complex Additional Support Needs: Qualitative Research](#), Scottish Government. March 2015.

³ [The Financial Impact of Changing Demography](#). Edinburgh Council. 2013.

⁴ [Additional Support Needs Review](#), Highland Council. 2014

⁵ [No Barriers to Medication at School](#), p12, 28, CYPCS. 2013.

⁶ [The administration of medicines and health care procedures in schools](#), p9, CYPCS. 2013

Children's Rights and Healthcare Needs

A number of articles of the United Nations Convention on the Rights of the Child (UNCRC) are relevant to meeting children's healthcare needs in schools:

- **Article 3** says that the best interests of children should be considered when decisions are made about children.
- **Article 12** gives children the right to have a say in decisions made about them, in line with their developing capability.
- **Article 23** gives particular rights to children who have any kind of disability. They have the right to special care and support, so that they can live full and independent lives. Not all children who have healthcare needs at school will be disabled, but many will be, particularly if the broad definition of disability in the Equality Act 2010 is used.
- **Article 24** gives children the right to the best quality healthcare.
- **Articles 28 and 29** give all children the right to the best education possible to develop their personalities, talents and abilities to the fullest.

Legislative and policy background

Children's rights, particularly those of children with additional support needs or disabilities, are protected in Scottish law by the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended)⁷ and under the Equality Act 2010⁸. These place a duty on education authorities to make provision for additional support needs, including healthcare needs, of children and allow redress through the Additional Support Needs Tribunals.

The Standards in Scottish Schools etc. Act 2000 introduced a presumption of mainstreaming in Scottish education. This means that, where appropriate to their ability or aptitude, children should usually be educated in a mainstream school⁹. It is not appropriate for a child to be placed in a special school solely to meet their healthcare needs.

More recently, the principles of Getting it Right for Every Child (GIRFEC)¹⁰ and the Curriculum for Excellence¹¹ mean that meeting the educational and healthcare needs of children should be at the core of education practice in Scotland.

Barriers to realising rights

A wide range of barriers prevent children from having their healthcare needs met at school. In some cases, the barrier is the cost of providing the care, or the facilities needed, but in many cases the barriers are organisational. These barriers are

⁷ [Additional Support for Learning](#). Scottish Government.

⁸ [Equality Act 2010](#)

⁹ [Standards in Scottish Schools etc Act 2000](#)

¹⁰ [GIRFEC](#). Scottish Government.

¹¹ [Inclusion and Equalities](#). Education Scotland.

complex and interlinked, and addressing them requires commitments by the local authority, NHS board and the school to work together to overcome them.

Failure to make reasonable adjustments

The Equality Act 2010 and accompanying technical guidance produced by the Equality and Human Rights Commission (EHRC)¹² makes it clear that the key responsibility for provision of support to children with healthcare needs at schools lies with education authorities under their duty to make reasonable adjustments, including auxiliary aids and services. Yet our research and enquiries received by the Commissioner's office and other agencies suggest this is not happening consistently in all schools. As a result, children and young people are prevented from realising their rights to education. In some cases, children have been unable to attend school for a number of months. Any new Scottish Government guidance should make this duty explicit and refer schools to EHRC guidance on meeting this duty.

Training needs

Staff who administer medication or perform medical procedures need to be properly trained by a medical professional or other accredited trainer. Good quality and supportive training allows staff to meet the healthcare needs of children confidently. However, a lack of access to adequate training can be a significant barrier. It can be difficult for classroom support staff to be released for training. Both school and NHS staff workloads can make it difficult for staff to access training through the school nursing service or other NHS providers. In some cases, training can be provided by voluntary organisations, such as Asthma UK, but again capacity may be limited. Private providers are available but may represent a significant cost.

Whilst the primary training requirement is for staff who directly meet children's healthcare needs, a whole school approach is vital so that school management teams, class teachers and all support staff have training on the needs of children with healthcare needs. This includes training on specific conditions which affect children in their care and awareness, how these different conditions affect individual children and the educational impact of these conditions. Teaching unions have historically argued that administration of medication is not part of a teacher's duties. However, a child rights perspective shows that meeting healthcare needs in schools is essential to meeting these children's right to an education. Whilst other staff may administer medication, teachers have responsibilities, as part of GIRFEC, to ensure these needs can be met with minimal impact on a child's education. All staff working with children with healthcare needs, in mainstream or special school settings, should receive training in how to meet these needs.

Staff concerns

Most local authorities do not include administration of medication or other medical procedures in the duties of any group of staff. Instead, schools are reliant on

¹² <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-schools-scotland>

identifying volunteers, usually from amongst classroom support staff, to meet these needs. A lack of volunteer staff can result in children missing substantial periods of school. Attempts to address this issue has led to disputes, such as in Glasgow in 2013-14¹³, which have had a significant impact on children's rights. Many staff are initially unwilling to take on this responsibility, for a variety of reasons, but addressing the issues of training and indemnification and providing awareness training can help address staff concerns and make them feel more comfortable administering medication or performing medical procedures.

Indemnification issues

Individuals responsible for administering medication or medical procedures are naturally concerned about any potential individual liability they may incur. It should be made clear to these staff that, as long as they follow agreed procedures and policies, they are fully indemnified by their employer's public liability insurance. It must be recognised that not meeting healthcare needs also carries substantial risks – most importantly to the health of the child, but also of legal action against the local authority under equality or ASL legislation.

Some local authorities report that they are finding it difficult to obtain public liability insurance for some medical procedures required by children in school. This is particularly the case with children who have very complex medical needs. In some cases, cover is provided on a "named exception" basis. However, this requires the education authority to provide insurers with details of the child's medical condition(s) and the procedures required. We are concerned that details of children's medical conditions need to be shared with commercial insurers, even if consent is obtained for this.

Solutions

Partnership working between education authorities and the NHS

Whilst the primary duty to meet healthcare needs in schools lies with education authorities, NHS boards also have duties in relation to the provision of healthcare services¹⁴. For the most complex healthcare needs, there may need to be joint funding and/or delivery of services by medically or para-medically qualified staff to enable these to be met. For less complex conditions, schools are dependent on NHS or otherwise qualified staff to provide appropriate training to enable them to support children's healthcare needs. Our research showed that this practice is inconsistent across local authority and NHS board boundaries.

Supportive local authority and school management teams

Education authorities, with the support of NHS boards, should seek to put in place permanent, robust arrangements to ensure children's healthcare needs can be met

¹³ [School Staff Accept New Pupil Medication Deal](#). Unison, 2014.

¹⁴ [National Health Service \(Scotland\) Act 1978](#).

in all educational settings, allowing children to attend the school appropriate to their aptitude and ability. An ASN Tribunal decision in 2014 made it clear that education authorities need to make these arrangements¹⁵. It is likely that the number of children needing medical procedures during the school day will continue to rise and arrangements need to be made by education authorities to meet these needs. This includes clarifying roles and responsibilities, providing Headteachers with advice and support and ensuring schools are adequately resourced to meet needs, most importantly with appropriately trained staff.

Within schools, Headteachers have a responsibility as managers and as Named Persons to ensure all children have their wellbeing needs met – this includes any healthcare needs. They need to put in place clear procedures for the storage and administration of medicines and equipment. To do this, they need to ensure they and their staff receive the necessary training and that all members of staff, including supply staff, are aware of the healthcare needs of the children in their school.

Good communication between home and schools

Involving children and their parents in planning to meet healthcare needs in schools is an important part of ensuring their needs are met and their rights realised. The child should be at the centre of all planning to meet healthcare needs and arrangements need to take into account not only their needs but their rights. They should, where they are able, be involved in this process. It is essential that their needs are met in a way which protects their dignity. Local authority policies, school policies and the Child's Plan should all be developed in consultation with children and parents to ensure robust arrangements are in place to meet the needs of all children. Ongoing communication will ensure that, as the child grows, arrangements can be adjusted to continue to meet their needs and, where appropriate, allow them greater independence in meeting those needs.

Toileting assistance

The current Scottish Government guidance does not include within its scope the issue of toileting assistance, including menstrual management, for pupils with additional support needs. Our research into children with additional support needs' experience of school toilets highlighted that this is another area where failures to meet the needs of children can prevent them attending school¹⁶. The number of children needing toilet assistance in mainstream settings is increasing, yet there is currently no Scottish Government guidance on this important issue. We urge the Scottish Government to ensure that new guidance is produced as a matter of urgency. This will need to cover assistance for physically disabled children, the needs of children and young people who require occasional assistance and also the needs of children and young people with sensory issues which affect their ability to use standard school facilities.

¹⁵ [Julie Wyper v North Lanarkshire Council](#). EHRG, 2014.

¹⁶ <http://www.cypcs.org.uk/publications/flushed>

Conclusion

The Scottish Government has an ambition to make Scotland “the best place to grown up” and to improve the attainment of all children and young people. To ensure that children and young people with healthcare needs reach their potential, we must ensure that their healthcare needs are fully supported in school.