



Positive legal case for public sector speech language and communication service provision for children and young people in Scotland (April 2015)

Background and Introduction:

The Royal College of Speech and Language Therapists (RCSLT) commissioned the Education Law Unit, Govan Law Centre to provide a legal note addressing the following question.

What are the legal responsibilities of NHS Boards, Local Authorities and Joint Boards or Joint Monitoring Committees in respect of

- a) provision for children and young people (CYP) up to age 18 years old with speech, language and communication needs?***
- b) their duties to facilitate the speech, language and communication development and communication access for children and young people (up to 18 years old) living within their locality?***

This brief summarises key points in law which make the positive case for provision of speech language and communication services by public agencies as well as providing answers to the questions above.

RCSLT emphasise this brief is about speech, language and communication services – and not exclusively speech and language therapy (SLT) services. Although SLT services are a key part of any speech, language and communication service they do not and should not constitute the whole service. Evidence makes it clear that optimum speech language and communication development and ability of children and young people involves parents, carers and everyone in the children and young people multi-agency workforce.

RCSLT hope clarity on the law will support provision of quality, evidence based speech, language and communication services for all children and young people in Scotland by acting as a helpful reference for service users, service providers, colleagues and strategic leaders across agencies and disciplines including Joint Integrations Boards /Committees.

Laws and associated regulations and codes of practice examined in the brief are

- Education (Additional Support for Learning) (Scotland) Act 2004
- National Health Service (Scotland) Act 1978
- Children (Scotland) Act 1995
- Children and Young People (Scotland) Act 2014
- Equality Act 2010
- Public Bodies (Joint Working) Scotland Act 2014
- Health Care Professions Council Registration
- UN Convention on the Rights of the Child
- UN Convention on the Rights of Persons with Disabilities

The brief summarises a full legal note prepared by Govan Law Centre on behalf of the RCSLT. The summary was compiled by RCSLT then approved by Govan Law Centre. The full legal note is available on request from RCSLT Scotland Office (Scotland.info@rcslt.org).

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

1. The Education (Additional Support for Learning) (Scotland) Act 2004, as amended, is the principal legislation which sets out the rights and duties arising in relation to children and young persons with additional support needs.
2. A child or young person is said to have “additional support needs” in terms of section 1 of the 2004 Act if “for whatever reason” they require additional support in order to benefit from school education. The legislation and the Code of Practice are both specific in making clear that such “additional support” need not be educational in nature but would include other interventions. Those interventions include, for example, speech and language therapy.
3. The test in Scots law as to whether speech and language therapy is considered “additional support” is simply whether it is required in order to benefit from school education. That is to say, will the intervention assist the child or young person in accessing the curriculum or otherwise be beneficial in the context of their education? Given the nature of speech and language therapy interventions, there will be few (if any) cases where the interventions fall outwith this definition.
4. While the Act and (to an even greater extent) the Code place a great emphasis on multi-agency and partnership working, the legal duties for provision remain primarily with the education authority.
5. Where a child or young person has additional support needs, section 4(1)(a) imposes a duty on the education authority to make adequate and efficient provision for such additional support as is required by the child or young person. That duty is subject to two caveats, found in section 4(2). The education authority are not required by this duty to do anything which they do not otherwise have the power to do, or which would result in unreasonable public expenditure being incurred.
6. Where a child or young person requires “significant additional support” from the education authority and from one or more appropriate agencies, they (assuming they fit the other criteria as well) will require a Co-ordinated Support Plan or CSP (section 2, 2004 Act). Appropriate agencies are defined in section 23(2)(b) as including “any Health Board”.
7. Section 11(5)(b) requires the education authority to ensure that additional support is provided by them “in accordance with the plan”. Section 11(5)(e) requires the education authority to inform persons involved in the provision of additional support for the child or young person of the relevant matters contained in the plan. Section 11(5)(c) requires the education authority to seek to ensure that additional support is provided in accordance with the plan by persons identified in the plan (other than the education authority). Section 11(5)(d) requires the education authority to co-ordinate “so far as possible” the provision of additional support by the education authority and by the other persons making provision in terms of the plan. (Emphasis added).
8. In short, the CSP is a multi-agency statutory document. The terms of the CSP are binding, but duties are only ever placed on the education authority and not on any other body.
9. Section 23 does impose duties on the “appropriate agency” in specified circumstances. However, said duties are directed purely in terms of a response to a formal request for assistance from the education authority; and are subject to two very broad exceptions.

10. The Code of Practice discusses these exceptions in some detail: "... there are two circumstances where an appropriate agency need not discharge its duty to help the education authority. The first refers to a situation where an appropriate agency may be asked to do something which it does not have the power to do. The second refers to circumstances where, if the agency was to provide the help, the agency's ability to carry out its other duties may be seriously compromised. For example, an education authority may request that a particular child has speech and language therapy. The NHS Board may agree that therapy is required but argue that it has its full complement of therapists all working to capacity and that to release a therapist to provide this service would prevent the Board carrying out its duties with regard to other children." (Code of Practice, Chapter 3, para 13).
11. The Additional Support for Learning (Appropriate Agency Request Period and Exceptions) (Scotland) Regulations 2005 provide the timescales under which the appropriate agency must respond to a request for help. Broadly speaking, the appropriate agency must respond to a request for help within the 10 week period specified in the regulations, although there are various circumstances in which that timescale can be extended.

Summary

- 12 The overall impact of the 2004 Act is to impose duties on the education authority to make provision for additional support (whether or not that support is itself educational). The Health Board or other appropriate agencies will be making provision in this context either in terms of an agreement to do so (possibly contained in a Service Level Agreement) or under a duty arising as the result of a formal section 23 request for help.

National Health Service (Scotland) Act 1978

1. Section 1(1) of the National Health Service (Scotland) Act 1978 imposes a duty on the Scottish Ministers to "... *promote in Scotland a comprehensive and integrated health service designed to secure-*
(a) improvement in the physical and mental health of the people of Scotland, and,
(b) the prevention, diagnosis and treatment of illness, and for that purpose to provide or secure the effective provision of services in accordance with the provisions of this Act."
2. The subsequent National Health Service Reform (Scotland) Act 2004 imposes a complimentary duty on the Scottish Ministers "*to promote the improvement of the physical and mental health of the people of Scotland.*"
3. The Functions of Health Boards (Scotland) Order 1991 delegates certain of the Secretary of State's functions under the 1978 Act to the Health Board. Among these are section 37 which, when read with the order, requires the Health Board to "... *make arrangements, to such extent as [they] consider necessary to meet all reasonable requirements, for the purposes of the prevention of illness, the care of persons suffering from illness or the after-care of such persons.*"
4. The term "illness" is defined in section 108(1) of the 1978 Act as including mental disorder and disability.
5. Section 16A of the National Health Service (Scotland) Act 1978 allows Health Boards to make payments towards the provision of community services. Such payments can

include payments to a local authority in respect of expenditure incurred by the authority in connection with their functions under the 2004 Act in making provision for additional support needs. It is not known how widely used this provision is (if at all).

6. Section 39 of the National Health Service (Scotland) Act 1978 provides:

“(1) It shall be the duty of the [Health Board] to provide for the medical inspection, at appropriate intervals, and for the medical supervision and treatment, of all pupils in attendance at any school under the management of an education authority, and of all young persons in attendance at any other educational establishment under such management.”

The question (raised by RCSLT) as to whether speech and language therapy itself would be considered “medical” is an interesting one. The 1978 Act defines the term “medical” only insofar as to clarify that it “includes surgical” (s.108). More recently, legislation has tended to refer to “health” and “health care” in preference to “medical”. In the view of the Govan Law Centre, the likelihood is that speech and language therapy would be regarded as falling within the ambit of “medical supervision and treatment” for the purposes of Section 39.

Children (Scotland) Act 1995

7. Part 2 of the Children (Scotland) Act 1995 deals with (among other matters) the promotion of children's welfare by local authorities.

8. Section 22(1)(a) provides a general duty on the local authority to “*safeguard and promote the welfare of children within their area who are in need*” and to do so by “*providing a range and level of services appropriate to the children's needs.*”

9. The term “in need” is defined in section 93(4)(a):

“Any reference in this Part of this Act to a child—

a. being “in need”, is to his being in need of care and attention because—

(i) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development unless there are provided for him, under or by virtue of this Part, services by a local authority;

(ii) his health or development is likely significantly to be impaired, or further impaired, unless such services are so provided;

(iii) he is disabled; or

(iv) he is affected adversely by the disability of any other person in his family;”

10. Thus, a child with speech, language and communication needs is likely to be regarded as being “in need” for these purposes.

11. The duty which thus arises is not, however, regarded as an absolute one. “A child in need within the meaning of [equivalent provisions in the Children Act 1989] is eligible for the provision of those services, but he has no absolute right to them. It is a general duty owed to all children in need, rather than a specific one owed to individual children.

12. Section 23 goes on to provide that in carrying out their obligations under section 22(1), the authority must take account of and make provision for the needs of disabled children. Where the authority is requested to do so by the parent or guardian of a disabled child, they must carry out an assessment of the child's needs. As the judgement of the House of Lords in the *Barnet* case (*supra*) indicates, this assessment of the child's needs does not "crystallise" the general duty of the authority into an individually enforceable right for the disabled child.
13. Section 23A(2) of the 1995 Act, (inserted by the Children and Young People (Scotland) Act 2014), requires that in carrying out its functions, a local authority "*must have regard to the general principle that functions should be exercised in relation to children and young people in a way which is designed to safeguard, support and promote their wellbeing.*" Wellbeing is a legal concept introduced by the 2014 Act, but will be familiar to many through its extensive prior use in guidance and policy documents (see below).
14. Once the Children and Young People (Scotland) Act 2014 comes into force in August 2016, any assessment which reveals the existence of a need for a "targeted intervention" would be encompassed within a statutory child's plan – see below. (Note: RCSLT will publish and / or circulate information to members on implications of statutory guidance relating "Assessment of Wellbeing", "Child's Plans etc. associated with the CYP Act 2014 in due course).

Children and Young People (Scotland) Act 2014

15. The Children and Young People (Scotland) Act 2014 is a wide-ranging piece of legislation (*see RCSLT brief on the Act at www.rcslt.org//xxxxx*). This note concentrates on Part 1, which is concerned with the rights of the child and the UN Convention on the Rights of the Child; and Part 5, which is concerned with the child's plan. Large sections of the Act represent an attempt to put elements of the Getting It Right For Every Child policy agenda (GIRFEC) on a statutory footing.
16. A staggered commencement is planned for the Act, with Part 5 due for commencement in August 2016. A date is yet to be set for commencement of Part 1.

Part 1: Rights of the child

17. Section 2 of the 2014 Act requires specified public authorities (including both local authorities and health boards) every three years to publish a report of what steps it has taken to promote or implement the United Nations Convention on the Rights of the Child (UNCRC) requirements, within its areas of responsibility.
18. The following Articles of the UNCRC are of particular relevance:
 - Article 3(3) – standards in services for the care or protection of children;
 - Article 6(2) – securing the development of the child
 - Article 12(1) – rights of the child to express their views;
 - Article 13 – right of the child to freedom of expression ("either orally, in writing or in print, in the form of art, or through any other media of the child's choice");
 - Article 23 – rights of disabled children;
 - Article 24(1) – right to access health care services;
 - Article 29(1)(c) – education to be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential.

(More information on these articles is provided at the end of this brief)

19. The duties contained in the Children and Young People (Scotland) Act 2014 do not implement any of the UNCRC requirements directly, but rather impose a reporting requirement on public authorities. This does not require compliance with the UNCRC, but should certainly promote compliance.

Part 5: Child's plan

20. Part 5 of the Children and Young People (Scotland) Act 2014 creates a new statutory document: the child's plan.
21. Section 33 sets out that a child requires a child's plan if they have a "wellbeing need" which is capable of being met (in whole or in part) by a "targeted intervention".
22. A child has a wellbeing need if the child's wellbeing is being, or is at risk of being, adversely affected by any matter. (s33(2))
23. Wellbeing is further defined in section 96(2):
"(2) The person is to assess the wellbeing of the child or young person by reference to the extent to which the child or young person is or, as the case may be, would be - Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included."
24. A "targeted intervention" is one which is provided by a "relevant authority" (this may include a local authority, and a health board) "in pursuance of any of its functions" but which goes beyond the universal service ordinarily provided by the body in question. Speech and language therapy would fall within this category in most, if not all, cases.
25. Significantly, the child's plan may only include a targeted intervention if the relevant authority who would be providing it agrees to its inclusion.
26. Section 38 requires a relevant authority "*so far as reasonably practicable*" to provide the targeted intervention(s) they are required to provide under the plan and/or to secure their provision by making arrangements with a third party. This duty does not apply if the relevant authority considers that to do so would prejudice the child's wellbeing.
27. Section 40 provides a similar mechanism for requesting help from other bodies as can be found in section 23 of the Additional Support for Learning Act 2004 with the same exemptions applying.
28. However - from a speech and language therapy point of view, the CYP Act is a very different proposition to the obligations found under the 2004 Act.

Provision made under the ASL 2004 Act was primarily a duty for the education authority. This remains the case, even where a health board are named in a Co-ordinated Support Plan as the providers of additional support such as speech and language therapy.

A duty could arise for the health board as an "appropriate agency" only in response to a formal request for help in terms of s23, and subject to two very broad exemptions. Parental remedies are available only against the education authority and the relevant dispute resolution mechanisms (mediation, independent adjudication and the Additional Support Needs Tribunals for Scotland) only have jurisdiction in relation to

the education authority.

29. By contrast, for the CYP Act - in the event that provision of speech and language therapy is recorded as a targeted intervention in a child's plan it is likely that the health board would be the named relevant authority.

In respect of pre-school children, the health board would also be the responsible authority, with the role of completing the plan.

In these circumstances, we have (for the first time) a specific duty arising as to the provision of speech and language therapy for a particular child or young person, which lies with the health board – at least insofar as it is “reasonably practicable”.

Crucially, there will also be the right for interested parties (parents, the child, perhaps others) to access a complaints process specifically focussed on this process and – presumably – enabling them to attempt enforcement of the terms of that plan. Enforcement of the terms of the plan by other means, including judicial review and reference to the Scottish Public Services Ombudsman are also likely to remain available.

Equality Act 2010

30. The Equality Act 2010 provides protection from discrimination in relation to nine different “protected characteristics”, one of which is disability, as defined in section 6 of the 2010 Act.
31. There are various forms of unlawful discrimination which are prohibited by the Act. The most relevant are indirect discrimination and failure to make reasonable adjustments.

Indirect discrimination

32. Section 19 provides that indirect discrimination occurs where a body applies a provision, criterion or practice which puts (in this case) disabled persons at a particular disadvantage in comparison with non-disabled persons. The application of a provision, criterion or practice (PCP) is not unlawful if the body can show that it is a proportionate means of achieving a legitimate goal.

Reasonable adjustments

33. Section 20 imposes a duty to make reasonable adjustments in relation to disabled persons. Included within that duty is a requirement to provide auxiliary aids and services where, but for that auxiliary aid or service, a disabled person would be placed at a substantial disadvantage in comparison with a non-disabled person.

Public Sector Equality Duty

34. The Public Sector Equality Duty (PSED) is imposed on public authorities by section 149 of the Equality Act 2010, which states:

“(1) A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*

(c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it;*"

35. This duty would, of course, apply to an education authority in considering what arrangements to make or policy to adopt in relation to the provision of speech and language therapy within its schools. It would equally apply to a health board in considering what provision to make in relation to the needs of children and young people who have speech, language and communication needs. The requirement to have due regard to the need to advance equality of opportunity is likely to be of primary significance.
36. The leading case on what it means to have "due regard" to the above principles is the Court of Appeal decision in the case of *Bracking v. Secretary of State for Work and Pensions* [2013] EWCA Civ 1345. In that case, Lord Justice McCoomb outlined several "uncontroversial principles" which must be considered in determining whether the duty has been complied with, and which can be summarised as follows:
- equality duties are an integral and important part of the mechanisms for ensuring the fulfilment of the aims of anti-discrimination legislation;
 - the duty is upon the decision maker personally - what matters is what he or she took into account and what he or she knew;
 - the duty is non-delegable; it is a continuing one and it is good practice for a decision maker to keep records demonstrating consideration of the duty;
 - the decision maker must assess the risk and extent of any adverse impact and the ways in which such risk may be eliminated before the adoption of a proposed policy;
 - the duty must be exercised in substance, with rigour, and with an open mind - it is not a question of "ticking boxes";
 - the duty of due regard requires public authorities to be properly informed before taking a decision - if the relevant material is not available, there will be a duty to acquire it and this will frequently mean that consultation with appropriate groups is required.
 - provided there has been a rigorous consideration of the duty, so that there is a proper appreciation of the potential impact of the decision on equality objectives and the desirability of promoting them, then it is for the decision maker to decide how much weight should be given to the various factors informing the decision;
 - officials reporting to or advising decision makers must not merely tell the decision maker what they want to hear but rather be "rigorous in both enquiring and reporting to them";
 - general regard to issues of equality is not the same as having specific regard, by way of conscious approach to the public sector equality duty;
37. The regulations which complement the PSED in Scotland are significantly more rigorous than the equivalent in England and Wales. Further detail is set out in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. In particular, the following regulations are of relevance:

- Reg 3 requires listed authorities (including health boards and education authorities) to report at two year intervals on the progress they have made in making the equality duty integral to the exercise of its functions (“mainstreaming the equality duty”).
- Reg 4 requires listed authorities to publish at four year intervals a set of equality outcomes which it considers will enable it to better perform the equality duty. In doing so, they must involve persons who share a relevant protected characteristic (e.g. disabled people). Further, they must publish at two year intervals a report on their progress in achieving said equality outcomes.
- Reg 5 requires listed authorities to equality impact assess proposed new policies and proposed revisions to policies against the needs set out in Equality Act 2010.149(1).(see para. 36 above).

Public Bodies (Joint Working) Scotland Act 2014

38. The Public Bodies (Joint Working) (Scotland) Act 2014 sets out the legislative framework for integrating health and social care. National outcomes for health and wellbeing will be established, with health boards and local authorities required to establish integrated partnership arrangements in pursuance of those outcomes.
39. An integration joint board can give a direction to both the health board and the local authority, and such a direction can require each party to carry out the functions jointly, in part or in relation to a specified area, or do particular things in relation to the function.
40. The Schedule to the Act lists the functions which can be so delegated. They include functions under the Children (Scotland) Act 1995, but do not include any functions under the Education (Additional Support for Learning) (Scotland) Act 2004, nor the Children and Young People (Scotland) Act 2014.
41. While the legislation does not absolutely rule out the delegation of speech and language therapy services for children and young people, the fact that so many of the key relevant pieces of legislation are omitted from the Schedule, leads Govan Law Centre to conclude that delegation of these functions is very unlikely in terms of the current legislation. In any event, the delegation of functions does not and cannot lessen the obligation to provide services for children and young people.

Health Care Professions Council (HCPC) Registration

42. Speech and language therapists require to be registered in order to practice and in order to call themselves speech and language therapists. The HCPC's most recent standards for registration of speech and language therapists came into force in January 2014.
43. Whether the provision of speech and language support services requires to be made by an HCPC registered therapist or not will depend on the terms of the Child's plan or CSP in question. Where a speech and language therapist is specified, then this would require the provision to be made by a registered therapist.

UN Convention on the Rights of Persons with Disabilities

44. The UN Convention on the Rights of Persons with Disabilities (UNCPRD) is a much

more recent convention than the UNCRC and has been ratified by the UK Government. Articles which may be of particular relevance include:

- Article 4(1)(g) – research and development including information and communication technologies suitable for persons with disabilities;
- Article 7 – children with disabilities;
- Article 24(1)(b) – right to an inclusive education system directed to the development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
- Article 24 (2)(d) – right to support to facilitate effective education for persons with disabilities;
- Article 25(b) – provision of health services needed by persons with disabilities specifically because of their disabilities; and
- Article 26 – habilitation and rehabilitation.

(More information on these articles is provided at the end of this brief)

45. As with the UNCRC, this Convention has not been incorporated into UK law nor into Scots law. The duties are imposed directly on States Parties and cannot directly be relied upon by individuals, with the enforcement mechanisms taking the form of periodic inspection and reporting by convention specific committees set up for that purpose. It is therefore not possible to attribute these international law obligations to individual public bodies, other than to say that – in very general terms – there would be an expectation that such bodies would be familiar with said Conventions, would have regard to the terms insofar as they are relevant to that body's functions and that they would attempt to comply with their terms in the absence of compelling reasons to do otherwise.

Summary answer to key question

A: What are the legal responsibilities of

- a) HS Boards,**
- b) Local Authorities and**
- c) Joint Boards or Joint Monitoring Committees**

(i) in respect of provision for Children and Young People (CYP) up to age 18 years old with speech, language and communication needs?

a) NHS Boards:

The legal responsibilities of health boards are expressed in very broad terms, with little in the way of specific, enforceable duties. Much will depend on the local agreements reached with the local authority or authorities, either in terms of a service level agreement, or as formally agreed in terms of delegated functions in terms of the Public Bodies (Joint Working) (Scotland) Act 2014.

Specific duties in relation to individual children or young people may arise in response to a request for help in terms of section 23 of the Education (Additional Support for Learning) (Scotland) Act 2004 (the health board as an “appropriate agency”) or in terms

of specific targeted interventions recorded in a child's plan prepared under the Children and Young People (Scotland) Act 2014 (the health board as a "relevant authority").

Where the child or young person is a disabled person, the health board have individual duties to that person not to discriminate against them in terms of Part 3 of the Equality Act 2010.

b) Local authorities:

Where the child or young person is a disabled child "in need", the Children (Scotland) Act 1995 requires an assessment of need be carried out where requested. That assessment informs the authority's duty to make provision – although it does not give rise to an individual enforceable right to services.

In terms of the Education (Additional Support for Learning) (Scotland) Act 2004 the primary duties lie with the education authority. Where the child or young person has additional support needs, the education authority has a duty to make adequate and efficient provision to meet those needs (subject to certain caveats). These duties are explicitly individual and enforceable via an easily accessible dispute resolution framework.

Specific duties in relation to individual children or young people may arise in terms of specific targeted interventions recorded in a child's plan prepared under the Children and Young People (Scotland) Act 2014 (with the education authority as the "relevant authority").

Further, where the child or young person is a disabled person, the education authority has individual duties to that person not to discriminate against them in terms of Part 6 and/or Part 3 of the Equality Act 2010.

(c) Joint Boards and Committees

Joint boards and joint committees, in the main, do not bear direct legal responsibilities themselves, but can acquire the functions and duties of the health board and/or local authority. It is likely that the formal legal responsibility would remain with the health board and local authority respectively.

In the case of integrated joint boards fulfilling duties directly with the approval of the Scottish Ministers, it is more likely that the joint board itself might be held accountable, with the other bodies jointly called.

B: What are the legal responsibilities of

- a) NHS Boards,***
- b) Local Authorities and***
- c) Joint Boards or Joint Monitoring Committees***

(ii) their duties to facilitate the speech, language and communication development and communication access equity for CYP (up to 18 years old) living within their locality?

Nowhere does the law articulate a duty to facilitate speech, language and communication development nor communication access equity. There are more general duties, such as the duty to ensure that education is directed at the development of the personality, talents and mental and physical abilities of the child to their fullest potential; or the duty to ensure that services for children "in need" take account of the needs of children with disabilities; and the

duties to meet all reasonable requirements to care for people with illness. These must also be read in light of the more aspirational treaty obligations binding the UK such as the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities. Increasingly, public bodies are expected to take a collaborative approach to meeting objectives like these, whether through formal structures like joint boards or processes like children's services planning.

Whether done collectively or individually, the process of planning for future provision must be carried out in compliance with each body's public sector equality duty, with its emphasis on equality impact assessment and having due regard to the need to promote equality of opportunity.

Information on relevant Articles from UN Convention on the Rights of the Child

Article 3(3) - States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 6(2) - States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 12(1) - States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Article 13 (1) - The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

Article 23 –

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24(1) - States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Article 29(1)(a) - States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

Information on relevant Articles from UN Convention on the Rights of Disabled Persons

Article 4(1)(g) – States Parties undertake to undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;

Article 7 –

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Article 24(1)(b) - States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to the development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

Article 24 (2)(d) - In realizing this right, States Parties shall ensure that persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

Article 25(b) – States Parties shall provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

Article 26 –

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

- a. Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
 - b. Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
 3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.