

Avoiding and solving problems

This factsheet explains:

- initial steps you can take if you have a concern about your child's support
- further things to try if the initial steps do not resolve your concerns
- the formal and legal routes available to resolve disagreements.

Start with the school or nursery

You can resolve most of your concerns about your child's additional support by talking to your child's school or nursery. It is important to tell them what your concerns are so that everyone understands the problem and you can start working together towards a solution.

The steps below are our suggestions for trying to resolve things as quickly and easily as possible.

Step 1 – ask for a meeting

If your child is in primary school, start by talking to your child's class teacher. If your child is in high school, their guidance teacher (sometimes called pastoral care teacher or head of year) is a good person to speak to. If your child is at nursery, you can speak to their key worker.

If a longer discussion would be helpful, ask for a meeting to talk things through. Involving the person with lead responsibility for additional support for learning at the school or nursery can be useful if the issue is something beyond the class or guidance teacher's control. This is often a deputy head or principal teacher – if you are not sure who has this role in your child's school or nursery, ask the office.

Schools and nurseries usually have procedures for contacting or arranging a meeting with a member of staff. Your child's school or nursery office can tell you about this too.

At the meeting it can be helpful to discuss:

- the school or nursery's understanding of your child's support needs and how their views match with yours
- the additional support the school or nursery is providing for your child and how they feel this meets their needs
- how they keep the support your child receives under review, and how they monitor your child's progress
- whether it might be helpful for your child to have a written support plan (or to review their existing plan if they already have one)
- arrangements for making sure they keep you up to date with how your child is getting on.

You have the right to take along a supporter or advocate to any meetings about your child's additional support. This can be a family member, friend, partner, or anyone else who could support you. It can also be someone from a voluntary service or advocacy organisation.

Find out more in our factsheet on [Working together with your child's school](#).

Step 2 – put your concerns in writing

If you have tried meeting with the school or nursery but still have concerns, put your concerns in writing. Focus on your child's needs and the impact of the current situation on their learning and wellbeing. You can make it clear that you want to continue to work together but that there are things that you are still feeling unclear or worried about.

Step 3 – speak to the head teacher

If you are not satisfied with the response you get, contact the head teacher or head of the nursery to talk things through. It is a good idea to confirm in writing anything you discussed and agreed.

Involving the local authority

If you have tried to resolve things by following steps 1 to 3 above but there are still issues, you can get in touch with the person responsible for additional support for learning at the local authority.

Every local authority must have a named officer that you can contact for advice or information about additional support for learning. You can find out who this is on our website: www.enquire.org.uk/local-authorities or by contacting our helpline.

You can explain your child's situation and what steps you have already taken to try and agree a way forward. The local authority officer will tell you what they will do next to try and understand the situation and find a solution.

It is likely that the local authority officer will contact the school or nursery to speak to them about the situation. They might come along to a meeting to talk about ways of resolving any issues.

You can email or write to the local authority officer to confirm what you have discussed. This helps to keep a record of who you have spoken to and what they have agreed to do. This can be useful if you cannot resolve your disagreement with the local authority and need to take further action.

If you still have concerns after involving the local authority, there are further steps you can take. The local authority officer dealing with your case should give you information about the options available to you but we have also listed them below. The best option for you will depend on what your disagreement is about.

Independent mediation

If you are finding it difficult to resolve a disagreement with your child's school or nursery, or with the local authority, an option available to you is to try independent mediation.

Mediation is when a neutral and independent third person (a mediator) helps people involved in a disagreement come together and agree on the best way forward.

It is a voluntary process between parents or carers (or young people aged 16 or over) and the school, nursery or local authority. Mediation can help rebuild relationships and communication by focusing everyone on the best interests of the child or young person.

You can request mediation for any aspect of a disagreement about additional support for learning. You can also use mediation more than once, if needed.

Every local authority must provide independent mediation services free of charge for parents, carers and young people to use.

Find out more in our factsheet on [Mediation](#).

Other options for resolving disagreements

When communication has broken down and you cannot reach an agreement through discussions and meetings with the school, nursery, or local authority, it may be necessary to involve others to make decisions or suggestions about what should happen next. Below we have summarised some of these options and the situations when you can use them.

Formal complaint against the local authority

All local authorities have complaints procedures that you can follow if you are unhappy with the way they have dealt with a situation. Information about the process for making a formal complaint should be on the local authority's website or you can contact the local authority to ask for this.

You can use formal complaints for most disagreements about education that you cannot resolve in a more informal way.

If the local authority does not uphold your complaint at the first stage, you will usually be able to take it to a second stage, where it will be fully investigated. If you disagree with the local authority's final decision, you can refer your complaint to the Scottish Public Services Ombudsman (SPSO). Contact details for the SPSO are in the '**Where can I find out more?**' section at the end of this factsheet.

Independent adjudication

Independent adjudication is a way of resolving disagreements about additional support needs. An independent and neutral third person (an 'adjudicator') looks at information about a disagreement and then makes recommendations for how to resolve it. It is a paper-based exercise where you and the local authority both get the opportunity to submit relevant documents along with your views on what should happen next.

You can request independent adjudication if you disagree with the local authority's decision about any of the following:

- whether your child has additional support needs, or the kind of support needs your child has
- refusing a request for an assessment of your child's needs
- the person doing an assessment, or the way it is done.

You can also use it if you think the local authority has failed to:

- provide the additional support for learning that your child needs
- request help from another agency, for example the NHS.

Your child may also be able to ask for independent adjudication if they are aged 12 or over.

Find out more in our factsheet on [Independent adjudication](#).

The Additional Support Needs Tribunal

The Additional Support Needs Tribunal is an independent and expert body that hears and decides on certain matters related to additional support for learning.

The tribunal can hear appeals (known as ‘references’) about:

- decisions about co-ordinated support plans (CSPs)
- refused placing requests to special schools or nurseries
- refused placing requests to mainstream schools or nurseries if the pupil has a CSP or one is being prepared for them
- failure to plan effectively for a young person leaving school
- decisions about children aged 12-15 being able to use their rights.

There is a deadline of two months to make a reference to the tribunal for any of these reasons.

There is a free advocacy and legal support service for families who have a right to make a reference to the tribunal called Let’s Talk ASN. Their contact details are in the ‘**Where can I find out more?**’ section at the end of this factsheet.

The tribunal also hears claims of disability discrimination against pupils. You have six months from the date the discrimination occurred to make a disability discrimination claim to the tribunal.

Your child may also be able to make references or disability discrimination claims to the tribunal if they are aged 12 or over. However, only young people aged 16 or over can appeal placing request decisions.

The local authority must do what the tribunal directs them to do. Find out more in our factsheet on [The Additional Support Needs Tribunal](#).

Education appeal committees

Every local authority has an education appeal committee. Education appeal committees are made up of no more than seven people from the local area who are from a range of backgrounds, such as elected councillors, parents and teachers.

They can consider appeals about:

- exclusions from school or nursery
- most refused placing requests to mainstream schools or nurseries.

For exclusions there is no deadline for appealing but it is best to submit it as soon as you can so that the appeal can be heard as quickly as possible. Your child may also be able to appeal their exclusion.

For placing requests, you have 28 days from when you receive the refusal letter to submit your appeal.

Find out more in our factsheet on [Education appeal committees](#).

Seeking support from your MSP or local councillor

You can contact your MSP or local councillor with a complaint about a school, nursery, or local authority. They may be prepared to make enquiries or write letters on your behalf, though they do not have to do this.

You can find out who your MSP is and how to contact them at www.parliament.scot/msps Your local authority's website will have information about who your local councillors are.

Section 70 complaints

Scottish Ministers can consider complaints by parents or other interested parties who think a local authority has failed to carry out a legal duty under education law. This kind of complaint is called a section 70 complaint. Before you complain under section 70 you should try other ways of resolving your disagreement.

Find out more in our factsheet on [Section 70 complaints](#).

Where can I find out more?

Scottish Public Services Ombudsman (SPSO) www.spsso.org.uk

The SPSO can consider complaints against local authorities if you have exhausted the local authority's own complaints procedures.

Let's Talk ASN

Tel: 0141 445 1955 Email: letstalkasn@edlaw.org.uk

Let's Talk ASN is a free advocacy and legal support service for families who have a right to make a reference to the Additional Support Needs Tribunal. It is a partnership between Barnardo's Scotland and the Govan Law Centre.

Additional Support Needs Tribunal www.healthandeducationchamber.scot/additional-support-needs/12

The full name of the Additional Support Needs Tribunal is 'the Additional Support Needs jurisdiction of the Health and Education Chamber of the First-tier Tribunal for Scotland'. The tribunal website has information and guidance for parents, carers, young people and children about making a reference or claim.



How Enquire can help

Enquire can help you understand your child's rights to additional support for learning and how to work in partnership with their school or nursery to make sure your child gets the support they need.

Enquire can:

- explain your child's rights to additional support for learning
- listen to any questions and concerns
- advise you on the way forward
- help you find local education and support services.

You can contact our helpline on **0345 123 2303** or **info@enquire.org.uk**
Access to interpreters is available.

You can also find lots more information about additional support for learning, including our full range of publications, at **www.enquire.org.uk**

The information on our website is available in over 100 languages and with a range of accessibility tools, such as text-to-speech.

Reach is our website for children and young people. Reach helps pupils to understand their rights to feel supported, included, listened to and involved in decisions at school: **www.reach.scot**

Enquire is also a partner in the My Rights, My Say service. My Rights, My Say supports children aged 12-15 with additional support needs to exercise their rights to be involved in decisions about their support in school:
www.myrightsmysay.scot

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