

# Education appeal committees

This factsheet explains:

- what an education appeal committee is
- what types of appeal you can take to an education appeal committee
- how the process works.

## What is an education appeal committee?

Every local authority must set up appeal committees to hear certain types of appeals and make decisions about what should happen.

Parents can take an appeal to the local authority's education appeal committee if they disagree with a decision the local authority has made about:

- excluding their child from school or nursery
- refusing a placing request for their child to attend a mainstream school or nursery (with certain exceptions — see below).

The committee will hear evidence from both sides and then decide whether they agree with the local authority's decision.

## Who sits on the committee?

Education appeal committees consist of a minimum of three and a maximum of seven people from the local area. They are selected from a range of backgrounds, such as elected councillors, parents and teachers.

## Exclusion appeals

If your child is excluded, their school or nursery must follow certain procedures and must formally record the exclusion. Part of the procedure is to send you a letter explaining the reason for the exclusion and how you can appeal.

There is no time limit for appealing an exclusion, but it is best to make an appeal as soon as possible. Your child can also appeal the exclusion if they are able to understand how to.

Parents usually appeal exclusions if they, or their child, feel that using exclusion was not justified. You would need to explain the reasons why you do not feel that exclusion was appropriate in the circumstances and provide evidence for your reasons.

When your child is excluded, the school or nursery enters details of the exclusion on their education records. If you successfully appeal against an exclusion, the school or nursery must remove the details of the exclusion from your child's records. This means the school or nursery cannot disclose information about the exclusion, for example to a future employer.

If your child is still out of school or nursery when the appeal hearing takes place and the appeal is successful, your child would also be allowed to return to school or nursery.

If the exclusion was permanent and your child was removed from the school or nursery's register, a successful appeal would mean they would be able to go back to the school or nursery.

Find out more in our factsheet on [Exclusion from school](#).

## Exclusion of disabled pupils

If your child is disabled, the school or nursery must make sure that they do not exclude them for a reason directly linked to their disability. Doing this could amount to disability discrimination.

If you think the school or nursery has discriminated against your child, you can seek advice from the Equality Advisory and Support Service on **0808 800 0082** or via their website: [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

You can still appeal the exclusion to the education appeal committee and you may also be able to make a disability discrimination claim to the Additional Support Needs Tribunal.

## Placing request appeals

Education appeal committees can hear appeals against most decisions to refuse placing requests to mainstream schools or nurseries.

The exceptions to this are if:

- your child has a co-ordinated support plan (CSP)
- your child is being assessed to find out if they need a CSP, or one is currently being prepared for them
- the local authority has refused to prepare a CSP for your child and you have made a reference to the Additional Support Needs Tribunal.

If one of these exceptions applies, your appeal should go to the Additional Support Needs Tribunal. The tribunal also hears appeals against decisions to refuse placing requests to special schools and nurseries. Find out more in our factsheet on [The Additional Support Needs Tribunal](#).

You have 28 days from receiving the placing request refusal letter to submit your appeal to the education appeal committee. The committee may still hear your appeal if you miss this deadline, but only if you had a good reason for not being able to submit it on time.

If your appeal is successful, the local authority must send your child to the school or nursery that you asked for in your placing request.

You can only make one placing request appeal to the committee within a 12-month period.

## How do I appeal to the education appeal committee?

The school, nursery, or local authority should write to you to tell you when you can appeal their decisions, and how you can do this.

Normally you should send a letter of appeal by post or email to the committee that clearly states the decision you wish to appeal. The letter you received explaining your right to appeal should have the contact details for the committee included.

Your appeal letter should include:

- your name and contact details
- your child's name, date of birth and address
- a clear statement of what you are appealing (i.e. the exclusion, or the refused placing request)

- a summary of the reasons why you are appealing
- a copy of the exclusion or placing request letter that you received
- any dates in the next month or so when you would be unable to attend a hearing.

You can include further supporting documents and information at this point, but you will also have the opportunity to do this later. This means that if you need more time to prepare all the information that you wish the committee to consider, you can just submit basic information initially so that your appeal is lodged.

It may be helpful to keep a copy of your letter for your own records.

## What happens next?

The committee must let you know within five working days that they have received your appeal letter. They must also let the local authority know about the appeal within this time.

If the committee decide that your appeal is something they can consider, they must tell you the date, time, and place of the hearing within 14 days of receiving your appeal letter. At the same time, they must tell you about your right to:

- represent yourself at the hearing, or have someone representing you
- have up to three supporters with you at the hearing (including the person representing you, if relevant)
- present your case in writing
- allow the committee to consider your case based on what you provide in writing only.

The committee must hold the hearing within 28 days of receiving your appeal. If the committee are unable to arrange a hearing within this time, it should happen as soon as possible after this. They should also give you at least 14 days' notice of the hearing unless you agree that you do not need this. If the date of the hearing is unsuitable for you, you can ask the committee to rearrange it.

Because of the coronavirus pandemic, many hearings now take place remotely via video or telephone. If this happens, the committee need to make sure that everyone has the necessary equipment and facilities and can fully participate.

If you have still not had a hearing within two months of submitting your appeal, you can treat it as if the appeal committee have refused your appeal. This is often called a 'deemed refusal'. This means you have the right to take your appeal to the Sheriff Court. If you are considering this option, it may be best to first seek legal advice.

## Before the hearing

You must make sure you have sent the committee all the information you would like them to consider at least 10 days before the hearing. You must also send a copy to the local authority.

The local authority must also send all the information they want the committee to consider by the same deadline. They must send a copy of this information to you.

If the committee needs any more information from you or from the local authority, they can ask for this and you must provide it if you can.

You can submit additional documents at the hearing, but the committee does not have to take account of them. For this reason, it is best to send in any evidence or relevant information in advance.

## Can I get support with my appeal?

Legal aid is not available for education appeal committees, and you should not normally need legal representation. However, you can have someone to represent you if you would find this helpful. For example, this could be an advocate or someone else who supports you.

You can also take along up to three supporters to the hearing – this number would include the person representing you if you decide to do this.

If your hearing takes place via video or phone call, you still have the right to be represented and/or have a supporter with you.

The Enquire helpline can tell you about local support services in your area, or you can search on our website [www.enquire.org.uk/service](http://www.enquire.org.uk/service)

## At the hearing

At the start of the hearing, the chair of the committee should explain how the hearing will go. If your hearing is happening via video or phone call, the chair of the committee should make sure everyone can hear everything being said, and throughout the hearing they should make sure everyone has an equal chance to participate.

The usual order of a hearing is:

- the local authority will present their case
- you will be able to ask the local authority questions
- you will present your case
- the local authority will be able to ask you questions
- the local authority will sum up their case
- you will sum up your case.

The committee can suspend the hearing if there is not enough information for them to be able to make their decision and for certain other reasons. If this happens, they will arrange another hearing between 14 and 28 days later.

In making their decision, the committee must consider all the information that has been presented to them. Each member must then vote on whether they agree with the local authority's decision (to exclude your child, or to refuse your placing request). The committee must give reasons for their decision.

The committee may give you their decision at the end of the hearing. If they need longer to decide, they must write to you within 14 days to let you know their decision and the reasons for it.

## After the hearing

If your appeal against an exclusion is successful, the local authority will have to remove the exclusion from your child's educational records and allow them to return to school or nursery if they are still absent.

If your appeal against a refusal of a placing request is successful, the local authority must place your child in the school or nursery you requested.

If your appeal is not successful and you disagree with the committee's decision, or if they do not give you a decision within 14 days of the hearing, you have the right to appeal to the Sheriff Court.

You should submit your appeal within 28 days of the committee's decision. It may be best to seek legal advice for a Sheriff Court appeal. You may be able to get legal aid to help with this. Contact the Scottish Legal Aid Board to find out if you are eligible: [www.slab.org.uk](http://www.slab.org.uk), Tel: 0131 226 7061.



# 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](mailto: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](http://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, as part of Enquire, provides advice and information for children, parents, carers and professionals about children's rights to additional support for learning: [www.reach.scot](http://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](http://www.myrightsmysay.scot)

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