

Rights of children aged 12-15

This factsheet explains:

- the rights of children aged 12-15 with additional support needs
- how they can use their rights
- what checks must happen before the rights can be used
- the support available for them to use their rights.

What are my child's rights?

All children have a right to have their views taken into account in decisions that will significantly affect them¹. Children with additional support needs also have the right to have their voice heard at certain times². For example, their local authority must seek their views when they are finding out about their needs and deciding what support they should get.

Children aged 12-15 have extra rights to help them become more actively involved in decisions about the support they receive. These rights are similar to the rights you have as a parent. For example, they have a right to:

- ask their local authority to assess their support needs
- ask their local authority to find out if they need a co-ordinated support plan (CSP)
- have a supporter or advocate with them at meetings about their support
- use formal routes for resolving disagreements with their school or local authority.

These rights can be particularly helpful for children whose parents may not be able to act on their behalf, like children with care experience or young carers.

¹Standards in Scotland's Schools etc. Act 2000

²Education (Additional Support for Learning) (Scotland) Act 2004, as amended

In all our factsheets, we will explain when children aged 12-15 have the same right as their parents or carers to do or ask for something.

There are some rights that your child will not have until they turn 16, for example, the right to choose which school they go to. When young people turn 16, they have all the rights under education law that their parents or carers had before they were 16.

What support can my child get to use their rights?

There is support available from a service called My Rights, My Say for children aged 12-15 to help them use their rights. This includes advocacy to help them speak to their school about the support they need. See '**Where can I find out more?**' below for more information about My Rights, My Say and how to request advice and support.

How can my child use their rights?

Your child's school and other professionals supporting your child should involve them in any decisions they make about their education.

If you or your child feel that the school is not involving them in decisions about their education, either you or they can discuss this with the school and agree how they can involve your child more.

If your child wants to use one of their specific rights (for example, if they want to request an assessment of their needs), they must tell their school or local authority. They must do this in writing (letter or email) or in another way that can be kept for future reference. You can help them with this.

The school or local authority should tell your child about the support that My Rights, My Say can provide to help them use their rights.

If your child has asked to use one of their specific rights, the school or local authority must let you know.

Capacity and wellbeing assessments

Before your child can use a particular right, the local authority must check that your child has the maturity and understanding (the 'capacity') to use that right.

They should be able to understand the situation, contribute appropriately, and understand and remember any decisions they or others take relating to their rights.

For example, if your child wants to ask for their co-ordinated support plan to be reviewed, they should be able to understand the plan, communicate what they think needs changed in it, and understand and remember any changes that may happen to the plan as a result.

You can share any evidence you think is appropriate with the relevant people to help them decide whether your child has capacity.

The local authority must also make sure that your child's wellbeing would not be negatively affected by using their rights. Using the right must not cause them harm or stop them from being safe, healthy, achieving, nurtured, active, respected, responsible or included. Find out more about local authorities' duties to look after pupils' wellbeing in our factsheet on [Inclusion, equality and wellbeing](#).

How do these assessments work in practice?

In most cases your child's teacher, or another professional who knows them well, will be able to assess their capacity to use a particular right and understand the impact using that right may have on their wellbeing. If they are in any doubt, they may ask for advice from other local authority staff (such as an educational psychologist). They may also ask the children's views part of the My Rights, My Say service.

There is no one-off decision for allowing a child to use all of their extra rights. A decision should be made for the specific right a child wants to use at the specific time they want to use it.

There is no time limit for assessing capacity and impact on wellbeing. However, your child's school or local authority should make any decisions about your child's capacity and wellbeing as quickly as possible. The school or local authority must let you and your child know the decision.

What if my child or I disagree with a decision about capacity or wellbeing?

If you or your child disagree with the decision about their capacity or the impact on their wellbeing, either of you can appeal (called 'making a reference') to the Additional Support Needs Tribunal. Find out more in our factsheet on [The Additional Support Needs Tribunal](#).

If my child uses their rights, how does this affect my rights as their parent?

Although your child aged 12-15 has many of the same rights as you do under additional support for learning law, this does not mean your rights have changed. Either you or your child can use any of the specific rights listed above.

However, it is not possible for you both to use the same right at the same time. For example, if you and your child both want your child's needs to be assessed, you should agree which of you is going to request the assessment. You cannot both use your rights to do this.

If your child does not want to use a right, and does not want you to either, you can still use your rights if you choose to.

If your child chooses to use one of their rights, you should still be fully involved in decisions about their education.

Where can I find out more?

My Rights, My Say www.myrightsmysay.scot

My Rights, My Say supports children in Scotland aged 12-15 with additional support needs to exercise their rights to be involved in decisions about their support in school. It's independent, confidential, easy to use, and supports children to speak up about what they need to learn.

My Rights, My Say is a partnership between Enquire, Partners in Advocacy, Children in Scotland and Cairn Legal. Each partner offers different services:

- **Enquire** provides information and advice about children's rights
- **Partners in Advocacy** provides direct advocacy support to children aged 12-15 to help them have a say in decisions about their support
- **Children in Scotland** provides independent support to make sure children's views are heard in formal processes (such as tribunal cases and assessments)
- **Cairn Legal** provides legal representation to support a child making a reference to the Additional Support Needs Tribunal.

For any questions about the service or to make a referral, visit the My Rights, My Say website or contact the Enquire helpline.

Extending Children's Rights - Guidance on the assessment of capacity and consideration of wellbeing (2017) www.gov.scot/publications/education-additional-support-learning-scotland-act-2004-amended-extending-childrens

This is the Scottish Government's guidance on making decisions about children's capacity and wellbeing.



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, 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**

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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Enquire is funded by the Scottish Government and managed by Children in Scotland

