

Section 70 complaints

This factsheet explains:

- what a section 70 complaint is
- when you can make a section 70 complaint
- how the process works.

What is a section 70 complaint?

Section 70 of the Education (Scotland) Act 1980 says that a parent (or anyone else with an interest) can make a complaint to Scottish Ministers¹ if they think a 'responsible body' (such as a local authority or the managers of an independent school) has failed to carry out one of its duties under education law, including the law relating to additional support for learning. A complaint about such a failure or failures is called a 'section 70 complaint'.

You can find out about some of the key laws relating to additional support for learning in our guide [Additional support for learning: A guide for parents and carers](#).

When can I make a section 70 complaint?

You can make a section 70 complaint if you think a local authority, or managers of an independent or grant-aided school, are failing to carry out an education-related duty under an Act of Parliament.

¹Members of the Scottish Parliament (MSPs) with responsibility for certain areas of policy, such as education

You cannot use a section 70 complaint to:

- ask Scottish Ministers to investigate and rule on past issues
- complain about failures to carry out 'common-law' duties that have come from previous court case decisions (such as the duty of care)
- ask Scottish Ministers to overturn decisions — Scottish Ministers cannot overturn a decision just because they disagree with it
- ask Scottish Ministers to investigate and rule on matters that you can refer to the Additional Support Needs Tribunal (see our factsheet on [The Additional Support Needs Tribunal](#)).

Before making a section 70 complaint

Section 70 complaints are rare, because most problems can be sorted out in other ways. Schools, nurseries and local authorities should do all they can to work with and involve parents.

There are several different ways you can and should try to resolve any disagreements you have with a school, nursery or local authority before making a section 70 complaint. Find out more in our factsheet on [Avoiding and solving problems](#).

Scottish Ministers are unlikely to investigate a section 70 complaint unless you have tried other ways of resolving your disagreement.

Who can make section 70 complaints?

A parent or carer, child (if they are able to understand how to), young person, legal representative or anyone else with an interest can make a section 70 complaint.

How do I make a section 70 complaint?

There is an application form for section 70 complaints available from the Scottish Government, along with guidance about the process. See the '**Where can I find out more?**' section at the end of this factsheet for details.

In the application you need to say:

- which legal duty or duties you think the responsible body has not met
- what your complaint is about, with evidence to support this.

If you have more than one complaint, you should say clearly which failed duty your evidence relates to.

Complaints should be posted to:

**Section 70 Complaints
Scottish Government
Directorate for Learning
Support and Wellbeing Unit
Area 2C North
Victoria Quay
Edinburgh
EH6 6QQ**

Or emailed to: EdSSection70@gov.scot

What happens next?

Once Scottish Ministers receive your application, they must decide within 15 working days whether to investigate your complaint.

Officials from the Scottish Government will help the Scottish Ministers with the investigation process. They will use the initial 15 days to make sure that everyone understands what the complaint is about.

If Scottish Ministers decide to investigate your complaint, the Scottish Government officials will contact you and the responsible body to ask for written evidence. Scottish Ministers might also ask Her Majesty's Inspectors of Education (HMIE) to carry out their own investigation and make recommendations.

Scottish Ministers will then consider all the evidence and decide whether there has been a failure to carry out a duty. They will inform you and the responsible body you are complaining about what their decision is.

If they decide there has been a failure, they will make an order that says the responsible body must carry out the duty within a set time. Scottish Ministers will contact the responsible body to make sure it has complied with the order.

How long will it take?

From the date your complaint is received to the date you are informed of the outcome, there should be a maximum of 105 working days.

If Scottish Ministers order a responsible body to carry out a duty, they must issue the order within the 105-working-day limit. After this, the responsible body must carry out the duty within the time limit set by Scottish Ministers.

Where can I find out more?

Section 70 of the Education (Scotland) Act 1980: guidance on making a complaint www.gov.scot/publications/section-70-education-scotland-act-1980-guidance-document-users-section-9781788515023

This is the Scottish Government's guidance on section 70 complaints. It explains the process in more detail and has some points to consider before making a complaint.

Section 70 complaint form www.gov.scot/publications/education-section-70

Govan Law Centre Education Law Unit www.govanlawcentre.org/education-law-unit

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

The Govan Law Centre can provide free legal advice and may be able to help you submit a section 70 complaint.



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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