

Educational Placements

This factsheet aims to tell you about educational placements and how you can make a placement request yourself.

Who can make a placing request?

Parents of children with additional support needs, and young people (aged 16+) with additional support needs themselves, can make a placing request.

What is a placing request?

A placing request is a written request for a child or young person to be placed in a particular, named school ("the specified school"). It is made to your own education authority, or the authority which manages the school you are looking for a place at.

For cases involving children or young persons with additional support needs, the choice of schools is wider, and includes:

- pre-school placements in nursery schools, or nursery classes within primary schools
- mainstream or special schools managed by an education authority
- a special class or unit within a mainstream education authority school
- a grant-aided or independent special school in Scotland; or
- a special school in England, Wales or Northern Ireland.

Where a placing request is made, the education authority have a duty to place the child accordingly unless one or more grounds for refusal of the placing request exists.

Grounds for refusal of a placing request

There are several grounds for refusal which are essentially all about whether there is space for an additional pupil or pupils at the school – however there is no single specified way of working out what the capacity of a school is(!)

Where placing the child at the specified school would prevent them from keeping reserved places for those who may move into the catchment area during the school year. This is closely linked to the capacity grounds described above.

Where the education normally provided at the specified school is not suited to the age, ability or aptitude of the child.

Where the child or young person has previously been permanently excluded from the specified school.

- Where the child or young person does not have additional support needs requiring the education or special facilities normally provided at the specified school.
- Where the child or young person is not of the correct sex for a single sex school.

If the placing request is for a place at a special school which is not managed by an education authority in Scotland:

- Where all of the following conditions apply:-
 - the authority are able to make provision for the child or young person's additional support needs at a different school (usually one of their own schools) – and the education authority have offered them a place at this school; and
 - having regard both to the respective suitability and to the respective cost (including necessary incidental expenses) of the two schools in question, it is not reasonable to place the child or young person in the specified school.
 - Where the specified school is a special school, and placing the child there would breach the requirements of the presumption of mainstreaming.

An education authority may rely on more than one ground of refusal. If you make a placing request for an education authority school, you will normally be responsible for transporting your child to and from that school.

Deemed Decisions

If an education authority does not reply to a placing request within two months (currently three months due to temporary changes during the Covid-19 pandemic) of the placing request this is a deemed refusal and an appeal can be made.

When applying for a place for the next academic year, if the placing request was made before 15 March, then the authority require to issue a decision by the end of April (i.e. the April before the beginning of the academic year in question). Currently the deadline is the end of May, due to temporary changes during the Covid-19 pandemic. Again, a failure to do so is a deemed refusal and an appeal can be made.

Appeal to the Education Appeal Committee

Unless there is a right of appeal to the Tribunal (see below), an appeal against a refused placing request will be heard by an education appeal committee, set up by the local authority. A reference to the appeal committee must be made within 28 days of the refusal (or deemed refusal). The appeal committee will consider whether a ground or grounds of refusal exist(s), and whether it is appropriate in all the circumstances to uphold the education authority's decision. If the answer to either question is "no", then the committee must require the education authority to place the child or young person at the specified school.

The presumption of mainstreaming

An education authority must provide school education to all pupils (including those with additional support needs) in a mainstream school, unless one of the legal exceptions apply:

- a mainstream school would not be suitable for the age, ability or aptitude of the child or young person;
- educating the child or young person at a mainstream school would be incompatible with the provision of efficient education for other pupils; or
- placing the child or young person in a mainstream school would result in “unreasonable levels of public expenditure” being incurred.

The law goes so far as to say that these circumstances will arise only exceptionally.

The Additional Support Needs Tribunal

- The Additional Support Needs Tribunal hears appeals against the refusal of placing requests. It hears all appeals where the specified school is a special school or special unit (unless the child or young person is not within the local authority system).
- It also hears appeals where the specified school is a mainstream school (if the child or young person has a CSP, or is in the process of a CSP being considered).
- The Tribunal will consider whether a ground or grounds of refusal exist(s), and whether it is appropriate in all the circumstances to uphold the education authority’s decision.
- If the answer to either question is “no”, then the Tribunal must require the education authority to place the child or young person at the specified school.
- The Tribunal will usually also specify a suitable start date for that placement.

Time Limits

A reference should be received by the Tribunal within two months from the date of the refusal of the placing request (or deemed refusal).

Making a Reference

A reference to the Tribunal can be made using the reference form which is on the Additional Support Needs website www.healthandeducationchamber.scot. A paper copy can be sent to the Tribunal, or it can be submitted electronically.

Free representation for references to the Tribunal is available from Let's Talk ASN Scotland.