

### Making things right

This fact sheet aims to provide you with information to help you navigate any difficulties that arises in relation to education.

If a difficulty does arise, you should firstly raise this directly with the school and/or local authority. Fortunately, most concerns can be resolved at a local level, with good communication and without the need for formal dispute resolution.

Where this is unsuccessful there are tools and resources that can be used to try and make things right again. More on these can be found below.

### Mediation

- Mediation is a voluntary process and can often be very effective where parents / pupils and schools / education authorities come together with the aid of an independent third party (the mediator) to find a resolution to their disagreement.
- Mediation can be used in relation any educational disputes, including: additional support, placing requests, exclusions and transport to school.

### Independent adjudication

- Independent adjudication is where an independent person, the adjudicator, looks at evidence presented to them (usually in writing) and can make a decision in relation to certain specified educational matters.
- This includes determining whether a child or young person has additional support needs and whether there has been a failure to make suitable provision for such needs.
- A reference for independent adjudication is made in writing to the Scottish Ministers in the first instance.
- The adjudicator is nominated by the Scottish Ministers and then appointed by the education authority to determine the dispute.

- The adjudicator's recommendations do not have to be accepted by the education authority, but they usually are.

### Section 70 Complaint

- This is a “catch all” provision from the **Education (Scotland) Act 1980** that allows anyone to make a complaint about an education authority where they have failed to carry out their statutory duties.
- A written application is made and should be supported with any documentary evidence.
- Complaints will be shared with the authority and they will have a chance to provide details of their position, together with any relevant evidence.
- The Scottish Ministers have the power to direct school inspectors (Education Scotland) to investigate. Decisions of the Scottish Ministers are binding on the education authority, and can be enforced directly if necessary.
- A Section 70 complaint cannot be made about a matter where a reference to the Tribunal would be possible instead. It is also limited to issues where a breach of a specific statutory provision (i.e. a specific section of an Act of Parliament) can be identified.

### Scottish public services ombudsman (SPSO)

- The SPSO can look at whether schools have appropriate policies and procedures and whether or not these procedures are being applied properly. They can also consider if there has been a “failure of service”. Some educational matters are excluded from SPSO complaints.
- Before making a complaint to the SPSO, you should first have exhausted the education authority's own internal complaints system. The education authority would usually notify you once that stage has been reached.

- The SPSO's recommendations do not have to be accepted by the education authority, but they usually are.

<https://www.spsso.org.uk/i'm-unhappy-about-what's-happening-my-child's-school-can-you-look>

### Involving your local councillor or MSP:

- A local councillor or MSP may be prepared to provide support, make enquiries and write supporting letters to assist in educational matters. There is no obligation upon them to do this.

### Education Appeal Committees:

- Education appeal committees are set up by education authorities to consider some educational disputes. They deal with the majority of placing request refusals in relation to mainstream schools. There are some circumstances that they deal with placing request refusals to special schools. They also deal with appeals against exclusions.
- If you disagree with the decision of education appeal committee you then have a further right to appeal to the Sheriff Court within 28 days. Legal Aid may be available for an educational appeal to the Sheriff Court.

### The Additional Support Needs Tribunal:

The Additional Support Needs Tribunal may consider references, including:

- appeals against placing request refusals (except where there is a right of appeal to the education appeal committee instead);
- various matters relating to Co-ordinated Support Plans (CSPs); and

- post-school transition planning cases.

Parents, young people with capacity and some children are able to raise a reference with the additional support needs tribunal. Parents and young people who wish to raise a reference can obtain support from:

- Let's Talk ASN Scotland: <https://www.barnardos.org.uk/what-we-do/services/lets-talk-asn-scotland>

and children can obtain support from:

- My Rights, My Say <https://myrightsmysay.scot>. Both these services are free and supported by the Scottish Government.

A reference should ordinarily be received by the Tribunal within two months from the date of the education authority's decision (where there is a decision to be considered).

The Tribunal also deals with claims of disability discrimination in schools (see separate fact sheet on the Equality Act 2010).