



Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) Resolving Disagreements

There will occasionally be situations in relation to additional support, even with good practice, when agreement cannot be reached, tensions arise and a better way forward has to be found that will resolve matters to the benefit of the learner. This information sheet describes the options available to resolve the disagreement i.e. through discussion with the school/nursery, through mediation, by applying for dispute resolution or making a reference to the Additional Support Needs Tribunal.

What should I do if I am unhappy about any decision on my child's additional support needs?

It is always best if disagreements can be solved quickly and informally. You should contact your child's school or nursery if you have any concerns. You can also make your views known at any meeting held at school/nursery or by arranging a discussion with the relevant member of staff.

Don't forget that you can bring a **supporter** or **advocate** along with you to help you. A supporter can be a friend, relative, befriender or worker from a voluntary organisation. They could also be a professional working with your family. A supporter may help you in a number of ways, e.g. acting as a sounding board when preparing for the meeting, taking notes of the meeting or giving you advice during the meeting.

You can also use an advocate who can help you in the same ways as a supporter, and also speak on your behalf and represent your views at meetings. Although you have the right to be assisted by a supporter or advocate, the education authority does not have to provide one for you, or pay for one. An organisation that offers advocacy locally is Independent Advocacy Perth and Kinross. See contact details at the end of this information sheet.

Please try to resolve disagreements with the school before considering more formal routes. It will usually be possible. Failing this, independent mediation is one option that can help.

What is Mediation?

Mediation is private and confidential and is a free service. A trained mediator will help both parties to find a shared agreement that resolves the problem. The mediator is independent of the Council. You can discuss the issues and your ideas for resolving the disagreement without fear of them being used against you in the future if no agreement is reached. You can also have a supporter or advocate with you to help put your views across.

When can mediation be used?

Mediation is a way of resolving disagreements or misunderstandings early on, to prevent them escalating or after everything else has been tried. It is voluntary and will not affect your rights if you want to take the matter further at a later date. Mediation can be used more than once; for example, for resolving different parts of a disagreement.

Who provides this service?

In Perth and Kinross, this service is provided by an experienced and qualified Mediator.

Next Steps

If you wish to use this service you should contact your child's school/nursery for further information. Where you have had a letter from Education & Children's Services giving you a decision, e.g. about whether a CSP should be prepared, you should contact the Education Additional Support Officer if you wish to use mediation.

What is dispute resolution?

Dispute resolution involves a formal review and is free of charge to parents. It is a paper exercise and considers written evidence submitted by both you and the Council. Although there is no legal requirement for the recommendations to be acted upon, both parties are expected to accept the outcome. In general, this process of review should not take more than 60 working days.

When can dispute resolution be used?

This can be accessed where a decision has been made on the following:

- whether your child has additional support needs or not
- to assess or not your child's additional support needs
- the description of your child's additional support needs
- the level of additional support your child is receiving
- the failure of the authority to provide, or make arrangements for, the additional support required
- the failure of the Council to request help from another agency such as social work or health services for your child's additional support needs.
- The failure of the authority provide or make arrangements to provide for your child's additional support needs.

Who provides this service?

The Scottish Ministers will appoint an independent adjudicator from a panel of people experienced in additional support needs.

Next Steps

If you wish to use dispute resolution you should make a request directly to Scottish Ministers and this request should be accompanied with other documents such as your child's educational plan, letters, etc. Assistance can be provided by contacting the **Sam Nicholson, Education Additional Support Officer**.

What are the Additional Support Needs Tribunals for Scotland?

This is an independent body set up by the Scottish Government to deal with disagreements between parents or young people and education authorities in relation to Co-ordinated Support Plans, appeals concerning refusals of placing requests (only in relation to special schools and /or where a co-ordinated support plans are involved) and school to post school transition. The decision process should not take more than 3 to 4 months from the date of receipt of the reference to the Tribunal (4 to 5 months if July is included).

When can the Additional Support Needs Tribunals for Scotland be used?

Parents and young people can refer to the Additional Support Needs Tribunals for Scotland if they disagree with the decision that Perth and Kinross Council has taken:

- to prepare a Co-ordinated Support Plan (CSP)
- not to prepare a CSP
- to continue a CSP following a review
- to discontinue a CSP following a review
- not to comply with a request to establish whether a child or young person requires a CSP
- or if timescales for CSPs are not met
- to fail to respond to a request to establish whether a CSP is required
- the decision of the Authority to refuse a placing request for a child with additional support needs to a special school or grant aided school

Where a child already has a CSP, parents or young people can refer to the Additional Support Needs Tribunal for Scotland on:

- the information contained in a CSP
- failure of the Authority to review a CSP at the end of 12 months
- the decision from the Authority to refuse a request from a parent or young person to review the CSP
- failure by the Authority to provide, or make arrangements for the provision of, the additional support contained in a CSP

There is a two month time limit for making a reference, starting on the date when the education authority gave you its final written decision. As part of this decision, you should be informed of your right to appeal to a Tribunal by the Head of Service (Secondary and Inclusion Services)

You can continue talking to the education authority to try to sort matters out even after making a reference.

Who provides this service?

The Additional Support Needs Tribunals for Scotland are made up of a convener who is a lawyer, and two members who have extensive skills and experience in additional support needs. The Tribunals are independent and aim to be user-friendly, informal and easy for parents to use rather than being in a court setting.

Next Steps

If you wish to use the Additional Support Needs Tribunals for Scotland you can contact Sam Nicholson, Education Additional Support Officer. You can also contact the Tribunal directly.

Where can I find more information?

- Information may be obtained on the Act by contacting Sam Nicholson, Education Additional Support Officer at Almondbank House on 01738 472291
- Further information on the Act is available from <http://www.scotland-legislation.hms.gov.uk/legislation/scotland/>
- Information and advice is also available from Enquire Helpline on 0845 123 2303
- Email: info@enquire.org.uk
- See other Information Sheets in the series:
 - Sheet 1 Introducing the Act
 - Sheet 2 New Rights for Parents, Children and Young People
 - Sheet 3 Providing Additional Support
 - Sheet 4 Identifying, Monitoring, and Reviewing Additional Support Needs
 - Sheet 5 Educational Planning and Plans
 - Sheet 6 Additional Support Meetings
 - Sheet 8 Sources of Support and Advice
 - Sheet 9 Providing Additional Support for Children under 5
 - Sheet 10 Individualised Educational Programmes (IEP)
 - Sheet 11 Transitions
 - Sheet 12 Preparing for Adulthood – Post School Transitions

These are also available online at www.pkc.gov.uk and follow the path:
Education and Learning, Schools, Schools – Additional Support Needs – Information Sheets

- To receive support and advice from a free advocacy service, contact: Take Note Advocacy Service on 0131 667 6333 or email enquiries@sclc.org.uk
- To ask for independent adjudication, write to :
Scottish Government
Support for Learning Division
Area 2- B South
Victoria Quay
Edinburgh
EH6 6QQ
- The Additional Support Needs Tribunals for Scotland Helpline on 0845 120 2906
Email: ASNTSInquiries@scotland.gsi.gov.uk
- Independent Advocacy Perth and Kinross
90 Tay Street, Perth. PH2 8NP
01738 587887
Email: ENQUIRY@iapk.org.uk

If you or someone you know would like a copy of this document in another language or format, (on occasion only a summary of the document will be provided in translation), this can be arranged by contacting:- Communication Manager on 01738 476873.