

additional support needs

REFERENCE FORM



Introduction

This form is available in larger font and in other languages.

The Education (Additional Support for Learning) (Scotland) Act 2004 gives parents, young people (aged 16 or above who remain in school education) and (in certain circumstances) children aged between 12 and 15 years the right to make an appeal to the Additional Support Needs part of the Health and Education Chamber of the First-tier Tribunal for Scotland (we call this the "Tribunal" in this form). Appeals can be made about certain decisions made by the Education Authority. These appeals are called references. This form is your reference to the Tribunal.

Page 10 of this form list the types of decision the Tribunal can deal with.

If you are a young person making your own reference you should respond to questions about 'your child' as being questions about you.

If you are making a reference for a child or young person, the term 'parent' takes the meaning which is set out in Section 135(1) of the Education (Scotland) Act. A 'parent' could include:

- a guardian;
- anyone who has care of the child or young person;
- anyone who is liable to maintain the child or young person; or
- anyone who has parental responsibilities for the child or young person.

To help us:

We need to know what decision or problem you are making a reference about.

- It is possible that your reference is about a failure to act by the Education Authority. In such cases there may not be something in writing about that alleged failure. You may have a valid reference in such cases, depending on the circumstances.
- Your reference may have been prompted by a decision or step taken by the Education Authority and which has been confirmed by the Education Authority in writing. If that is the case, please enclose that written material (or a copy of it) with this reference form.

To help you:

- There is information on our website at:

<https://www.healthandeducationchamber.scot/additional-support-needs/publications/information-notes>

- If you don't have access to the internet, call us on 0141 302 5860 and a copy of the information notes can be sent to you.

When you have completed the form please send to:

**Additional Support Needs
Health and Education Chamber
First-tier Tribunal for Scotland
Glasgow Tribunals Centre
20 York Street
Glasgow
G2 8GT**

Please do not delay, as a reference should be received **within 2 months** of the Education Authority's decision or the issue arising. If it has been longer than 2 months, please give as full an explanation as possible as references may be accepted beyond the normal time limit if there is good reason for the delay.

Section 1

This is a notice of reference to the Tribunal under section 18(1) of the Education (Additional Support for Learning) (Scotland) Act 2004, as amended.

If you are a child aged between 12 and 15 years, you can complete your own form, which you can access here:

<https://www.healthandeducationchamber.scot/needstolearn/make-reference>

I am (please tick)

a parent of a child with additional support needs

a young person (16 years or above) with additional support needs

a parent of a young person with additional support needs who lacks capacity to make their own reference.

Contact details

A: You (parent or young person making your own reference)

Mr/Mrs/Miss/Ms/Other:

Surname:

First name(s):

Relationship to Child (if applicable):

Address:

Town:

Postcode:

Telephone:

Mobile:

Email:

Fax:

I give my permission to send correspondence by fax/ email.

Yes

No

Please note, for Data Protection purposes any case sensitive information can only be released to a secure email address. If you do not have a secure email address then all case sensitive information will be sent by post.

Signature:

Please provide the names and addresses of both parents of the child or young person below.

Name:

Address:

Relationship to Child/Young Person (if applicable)

Name:

Address:

Relationship to Child/Young Person (if applicable)

Please provide the name of the child or young person who lacks capacity [to be completed only where a parent is making a reference on behalf of a child or young person]

Surname:

First Name(s):

Date of Birth:

Male/Female:

Is the child or young person looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995)?

Yes

No

Why does the child have additional support needs? (e.g. has a visual impairment, is a carer, is looked after, has an autistic spectrum disorder, has social, emotional or behavioral difficulties).

Has there already been a reference to this Tribunal or to the Additional Support Needs Tribunal for Scotland about you/ the child/the young person?

Yes

No

If yes, please provide the reference number (if known)

Have you used a mediation service to try to resolve the issue you are making this reference about?

Yes

No

Section 2 - Communication and other support needs

We will do our best to meet any communication or support needs you may have; there will be no cost to you.

For instance, if you need our correspondence translated or in a larger font, please let us know. Please do so by explaining any communication or support needs you require for this reference in the box below.

Section 3 - Your representative (if you have one)

You have the right to have someone act as your representative when you make a reference. It could be someone who is experienced in representing at Tribunals or who is legally qualified. The services of an advocate to represent you can be made available on request and free of charge in Tribunal proceedings. Advocacy in this context means a service that another person provides to you by making representations to the Tribunal or any other persons involved in the proceedings.

Let's talk ASN Scotland is a free service for the parents of children with additional support needs who may require support in relation to a dispute or potential dispute with an education authority. The service also covers young people (aged 16 or 17 years) with additional support needs themselves. Let's Talk ASN Scotland is a joint initiative of Govan Law Centre and Barnardo's. It is funded by the Scottish Government.

The service can be used by anyone who has the right to make a reference to the ASN jurisdiction. The Let's Talk ASN Scotland service offers specialist independent advocacy throughout the process, and all cases are supervised by an experienced education law solicitor.

Let's Talk ASN Scotland - Telephone: 0141 445 1955; Email: advice@edlaw.org.uk

If you decide to make a reference without a representative, the Tribunal will help you to present your case.

If you name a representative, you should be aware that all our letters and correspondence will normally be sent only to them.

If you send your reference without naming a representative but later change your mind, a representative can be added at any time before the hearing but you must write and confirm. Also, if you change your representative, you must write to us with the details as soon as possible.

Representative's details

Mr/Mrs/Miss/Ms/Other:

Surname:

First name(s):

Company or Organisation:

Profession

Legal

Non-Legal

Address:

Town:

Postcode:

Telephone:

Mobile:

Email:

Fax:

In addition to a Representative you are entitled to have someone attend any hearing to support you. This could be someone from a support group or a friend who knows what your child's additional support needs are and how they affect you and your family. Any supporter will not be able to take any active part in the hearing.

Enquire, the Scottish advice service for additional support for learning, can provide details of support and advocacy groups in your area. You can contact them on: 0345 123 2303 or www.enquire.org.uk

Independent Advocate (for young person)

If you are a young person and you have an independent advocate please provide details:

Mr/Mrs/Miss/Ms/Other:

Surname:

First name(s):

Company or Organisation:

Profession

Address:

Town:

Postcode:

Telephone:

Mobile:

Email:

Fax:

Section 4 – About my Reference: Parent or Young Person

A: Education Authority

Which Education Authority has made the decision you disagree with or failed to make a decision which you expected?

Education Authority

Address:

Town

Postcode

Telephone

Education Officer's Name

Education Officer's Email

B: The decision you disagree with

Placing requests:

The Education Authority wrote to me on

Date:

refusing my placing request for:

- a school in the home authority (the authority where the child or young person resides)
- a school in the host authority (the authority where the school which the child or young person wishes to attend is located)
- an independent school or a grant-aided school

I made a placing request on

Date:

and I have not had a reply (This is only valid within a specified time frame¹).

If the school named in the placing request is not a special school, please tick if one of the following applied on the date that the placing request was refused (or the deemed refusal date; see below):

a Co-ordinated Support Plan was in place for my child; or

the Education Authority has decided a Co-ordinated Support Plan was required and was in the process of preparing one; or

the Education Authority has not prepared a Co-ordinated Support Plan but has informed me that they are proposing to establish if one is needed; or

I had a reference at ASNTS about the Education Authority's refusal to open a plan for my child.

Please give the name and address of the school you have specified in your placing request.

School Name:

Address:

Postcode:

If this is an independent or grant-aided school please enclose a letter from the school stating that it has a place for your child and that it considers itself able to meet your child's needs.

¹ If you made a placing request on or before 15 March for your child to start at your specified school on the first day of term in the next school year AND you have not had a reply by 15 May, that placing request is 'deemed' to have been refused. For a placing request at any other point in the school year, if you have not had reply to your placing request within 2 months, it is deemed to have been refused ((Education (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2021)

Co-ordinated Support Plan:

Does the child have a Co-ordinated Support Plan?

Yes No

If yes, what is the date on the CSP (the latest one if there is more than one)?

If yes, is any other Education Authority involved (other than the one you mentioned earlier)? If so, please state.

Please enclose the most recent copy of the Co-ordinated Support Plan with your reference.

Co - ordinated Support Plan Assessment

I asked the Education Authority on (date)

to assess if my child had additional support needs which would require a Co-ordinated Support Plan and:

- I have not had a reply.
- the Education Authority told me on (date) that it will not comply with my request.
- the Education Authority told me on (date) that my child needs a co-ordinated support plan but I have not received it yet.

The Education Authority normally has 16 weeks from the date you ask for your child to be assessed to either tell you that a Co-ordinated Support Plan will not be opened or to issue a Co-ordinated Support Plan.

The need for a Co-ordinated Support Plan:

- The Education Authority has told me that my child **does** need a Co-ordinated Support Plan. I disagree.
- The Education Authority has told me that my child does **not** need a Co-ordinated Support Plan. I disagree.

The contents of the Co-ordinated Support Plan:

Please tick whatever box(es) in this section apply and give us as much detail about why you disagree in Section 6.

- I disagree with what is written in my child's Co-ordinated Support Plan about:
- the factors from which additional support needs arise;
 - the educational objectives that have been set taking account of these factors;
 - the type of support proposed to help meet these objectives;
 - the person or agency who will provide that support.

Co - ordinated Support Plan: Provision of additional support:

- The Education Authority has failed to make arrangements for the provision of the additional support that is included in my child's Co-ordinated Support Plan.

Reviewing the Co-ordinated Support Plan:

- The Education Authority has reviewed my child's Co-ordinated Support Plan and decided a plan **is still required**. I disagree.
- The Education Authority has reviewed my child's Co-ordinated Support Plan and decided a plan **is no longer required**. I disagree.
- It has been more than 12 months since my child's Co-ordinated Support Plan was opened/reviewed and the Education Authority has not started to review it.
- The Education Authority had started to review my child's Co-ordinated Support Plan but has not completed that review within the timescales allowed (normally 12 weeks for the process).

Date review due:

Date review started:

- It has been less than 12 months since my child's Co-ordinated Support Plan was reviewed but I wrote on (date)

informing the authority that there had been a significant change in the additional support needs and I asked for an early review. The authority has refused my request. I disagree.

Please provide as much detail as you can in Section 6.

Transitions:

The Education Authority has failed to meet its duties regarding post school transitions and has not:

- provided appropriate agencies with information about my child's additional support needs and leaving date at least 6 months beforehand;
- considered what provision is needed for my child on ceasing school education other than provisions relating to school education;
- taken account of information provided by me or my child;
- contacted the appropriate agencies for information regarding additional support needs for my child in relation to his/her intended destination at least 12 months before my child has left school.

Other Appeals

Do you have an appeal (which has not yet been decided) at the Education Appeals Committee?

Yes No

Do you have an appeal (which has not yet been decided) at the Sheriff Court?

Yes No

Section 5

Parent exercising certain rights on behalf of a child aged 12-15 years

In certain circumstances, a parent of a child may exercise a right which a child aged 12-15 years has.

These rights relate to challenging:

- a) A decision by an Education Authority about the capacity of a child aged 12 to 15 years to do something (or have something done in relation to him/her); and
- b) A decision by an Education Authority about the wellbeing of a child aged 12 to 15 years should he/she do something or have something done in relation to him/her

If you wish to make a capacity or wellbeing reference, please complete this section.

A: Decisions about ability (capacity) to do something

- The Education Authority has made a decision about the child's ability (capacity) to make a decision about educational needs and I disagree with that decision.

In the box below, please explain the decision which you disagree with, and why you disagree with it. Although not essential, where possible please refer to the relevant provision of the 2004 Act.

- The Education Authority has made a decision about the child's ability (capacity) to understand something about a Co-ordinated Support Plan and I disagree with that decision.

In the box below, please explain the decision which you disagree with and why you disagree with it. Although not essential, where possible please refer to the relevant provision of the 2004 Act.

- The Education Authority has made a decision about the child's ability (capacity) to perform an act about educational needs and I disagree with that decision.

In the box below, please explain the decision which you disagree with and why you disagree with it. Although not essential, where possible, please refer to the relevant provision of the 2004 Act.

- The Education Authority has made a decision about the child's ability (capacity) to express a view about educational needs and I disagree with that decision.

In the box below, please explain the decision which you disagree with and why you disagree with it. Although not essential, where possible, please refer to the relevant provision of the 2004 Act.

B: Decisions about wellbeing

- The Education Authority has decided that the child's wellbeing would be negatively (adversely) affected by the child doing something and I disagree with that decision.

In the box below, please explain the decision which you disagree with and why you disagree with it. Although not essential, where possible please refer to the relevant provision of the 2004 Act.

The Education Authority has decided that the child's wellbeing would be negatively (adversely) affected by something being done to the child and I disagree with that decision.

In the box below, please explain the decision which you disagree with and why you disagree with it. Although not essential, where possible please refer to the relevant provision of the 2004 Act.

C: Other Decisions, Acts or Failure

If having considered the above options (in A and B) you are not sure which applies, please explain the decision, act or failure you wish to challenge and why. Although not essential, where possible please refer to the relevant provision of the 2004 Act.

Please now go straight to Section 6 and complete sections 6, 7 and 8.

Section 6 - Supporting information

It is helpful if you can provide as much relevant information as possible with your reference. We expect you to enclose any relevant documents you have although you may produce further evidence later. In particular, you should enclose a copy of any decision in respect of which the reference is made, any correspondence requesting the decision, a copy of the most recent coordinated support plan (if there is such a document) and documents relating to the additional support needs.

Please use this page to provide further information and to list the additional documents you are sending with the reference.

Section 7

The Tribunal also deals with claims of disability discrimination relating to pupils in school education.

If you have made or are making a claim on disability discrimination, would you like the Tribunal to hear this reference at the same time as your claim (if it is considered appropriate to do so)?

Yes

No

Date you sent your claim in:

Claim number (if you have already been given one):

Section 8

Declaration

I declare that the information provided in this form is correct.

Signature:

Print Name:

Date:

Final Checklist

Have you:

- Signed this reference form?
- Enclosed the decision letter you disagree with (if any)?
- Enclosed the most recent Co-ordinated Support Plan (if one exists)?
- If you have made a placing request for an independent school, enclosed a letter from the school in relation to whether a place is available for the child or you/the young person?
- Enclosed and listed all the relevant documents you think might help the Tribunal?

Once you have filled in the form, make sure that you have signed it if it is not being submitted by email.

Then, please send the form and all other relevant documents to us at:

**Additional Support Needs
Health and Education Chamber
First-tier Tribunal for Scotland
Glasgow Tribunals Centre
20 York Street
Glasgow
G2 8GT**

This reference form can also be emailed to
ASNTribunal@scotcourtribunals.gov.uk

What Happens Next?

We will check your reference form to see if the Tribunal can deal with the matters you have raised. If we need further information, we will contact you.

When we are sure that we can proceed, we will register your reference. We will then send you guidance about preparing your case statement (the case statement is a document in which you will be asked to set out your case in full). We will copy your reference to the Education Authority when it is registered and also your case statement (once you have prepared it) so they can respond. There is an information note on making a reference on the Additional Support Needs section of the Health and Education Chamber website:

<https://www.healthandeducationchamber.scot/additional-support-needs/publications/information-notes>

You are given 15 working days to prepare your case statement in circumstances when the Education Authority has failed to provide a Co-ordinated Support Plan within the required timescales.

In all other circumstances, you are given 20 working days (4 weeks) to prepare a case statement. The authority has a further 10 working days to produce their response to this. You might think you have submitted enough information in your reference. You do not need to prepare a case statement but you may need further time to consider if there is any other information which might assist the Tribunal to understand your child and their needs.

If you want your case to proceed as quickly as possible or think you may need more time you may ask for these time periods to be changed.

The Tribunal will comprise three people - one will be a legal member who is an experienced lawyer and the other two are specialist members, with expertise in education, social work or health. Occasionally a tribunal will be made up of one legal member sitting alone. The hearing will normally be held close to your home. We will send you more information at the end of the case statement period. All hearings are allocated at least a full day. More complex hearings may be allocated more time.

For further information:

- www.healthandeducationchamber.scot
- **0141 302 5860**

Ethnic Monitoring

In order to record the diversity of users, we would ask you to tick one of the boxes. Giving this information is entirely optional; it will have no effect on how your claim is progressed.

We operate stringent data management procedures and will keep your information secure. We are registered under the Data Protection Act.

This page will be detached from your claim and destroyed. The statistical data we gather from this sheet is kept in a separate electronic file from the claims themselves.

The child or young person's ethnic origin is:

White:

Scottish

Other

British Irish

Any other white background Please specify:

Mixed:

Any other mixed background Please specify:

Asian, Asian Scottish or Asian British:

Indian

Pakistani

Bangladeshi

Chinese

Any other Asian background Please specify:

Black, Black Scottish or Black British:

Caribbean

African

Any other black background Please specify:

Other ethnic background:

Any other background Please specify: