

Health and Education Chamber
First-tier Tribunal for Scotland



Additional Support Needs



Tribunal (Additional Support Needs) Forum

Online

Wednesday 22 April 2026

Health and Education Chamber
First-tier Tribunal for Scotland



Additional Support Needs

Mrs May Dunsmuir
Chamber President

Health and Education Chamber

President's Update

- **UNCRC**
- **Unrepresented parties**
- **Sensory hearing venues**
- **New application forms**

Additional Support Needs Tribunal: Placing Request Reference Form for Parents, Guardians, and Young People

Introduction

This form is available in larger font and in other languages. If you have any questions or need more information to complete this form, please call us on 0144 302 5860.

The Education (Additional Support for Learning) (Scotland) Act 2004 gives parents and young people (aged 16 or above who remain in school education) the right to make an application (called a **reference**) to the Health and Education Chamber (Additional Support Needs Tribunal), where an education authority has refused a placing request. We use the term **the Tribunal** in this form.

This is a placing request reference form.

If you are making a reference for a child or young person, the term **parent** includes:

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

Please provide as much information as possible in the form. You may also provide letters or documents which support your reference. If you have a letter from the education authority refusing the placing request, please include this with your form.

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 0144 302 5860 and a copy of the relevant information can be posted to you.

Please do not delay, as a placing request reference should be received **within 2 months** of the date the education authority made, or should have made, its decision, as now explained.

Where your placing request is made on or before **15 March** for the child to start at the new school at the start of the following academic year **AND** you have not received a decision on your request by 30 April, your placing request is treated as having been refused. If this is the case, your reference should be submitted by 30 June.

Continued on the next page >

Where your placing request was made after **15 March** for the child to start at the new school at the start of the following academic year **AND** you have not received a decision within 2 months of your request, your placing request is treated as having been refused. Your reference should be submitted within 2 months of that date (so within 4 months of the date of your request).

If you submit your reference after either of the deadlines shown above, please explain the reason. We may still accept it if there is a good reason for the delay.

The Tribunal procedures are governed by The First-tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018.

Section 1: Child, Young Person and Parent Details

About the child/young person

Additional support needs

Which additional support needs does the child or young person have? Tick all that apply.

- Anxiety
- Attention Deficit Hyperactive Disorder (ADHD)
- Autistic Spectrum Disorder (ASD)
- Hearing impairment
- Interrupted learning
- Language or speech disorder
- Looked after
- More able pupil
- Obsessive Compulsive Disorder (OCD)
- Physical or motor impairment
- Physical health problem
- Visual impairment
- Other (please specify):
- Mental health**
- Please specify:
- Learning difficulty**
- Auditory Processing Disorder (APD)
- Concentration challenges
- Difficulty following instructions
- Dyscalculia

Continued on the next page >

- Dysgraphia
- Dyslexia
- Language processing disorder
- Literacy challenges
- Low self-esteem
- Numeracy challenges
- Sequencing challenges
- Social skills challenges
- Speech/language delay
- Visual perceptual/visual motor deficit
- Other (please specify):

Please provide any further details in the box below.

Move to Section 3 >

Section 3: Representation

Representative

You have the right to have a representative when you make a reference. This could be someone who is experienced in providing representation at Tribunals or someone who is legally qualified, like a solicitor. It could be a friend or relative, if you prefer someone who is not legally qualified.

If you decide to have a representative, all correspondence will normally be sent only to them.

Let's talk ASN Scotland

This 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 years and above) who have additional support needs. Let's Talk ASN Scotland is funded by the Scottish Government.

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

Independent advocate

An independent advocate partners with a child or young person and listens to their views, wishes and feelings, so that they can support the child or young person to express their views on matters relating to the reference. They may be instructed by the Tribunal to prepare a report, or they may already be partnering with a child or young person. The independent advocate will work on behalf of the child or young person their partner to ensure their views are clear.

If the child or young person has their own independent advocate, please give their details on the next page.

Enquire

Enquire is the Scottish advice service for additional support for learning. They can provide details of support and advocacy groups in your area.

Telephone: 0345 123 2303
Email: www.enquire.org.uk

Continued on the next page >

Representative's details

Representative type: Legal Non-legal

Section 4: My Reference

A. Education authority

D. Details of the school specified in your placing request

School name:

Make a Reference

This form is for children aged between 12 and 15 years, who want to make a reference to the Additional Support Needs Tribunal (we call this the **Tribunal** in this form).

A **reference** is an appeal to the Tribunal about a co-ordinated support plan, or an appeal against your school's decision about your capacity or wellbeing.



Your Voice



Your voice, feelings and opinions matter. The Tribunal will do its best to help you if you have any difficulties making the UNCRC application, and we will do our best to help you to prepare for a hearing.

A **hearing** is a legal meeting where three independent Tribunal members listen to evidence from witnesses and hear legal arguments before it comes to a decision – a Tribunal hearing **does not take place in a court**.

Tell us if you have any communication difficulties or other support needs.

How can we help you with these during the hearing?

Hello!



Welcome to the Additional Support Needs Tribunal. We call this the **Tribunal** in this form. You can go to our **needs to learn** website for word meanings and other help using this link: [Word Meanings | First-tier Tribunal for Scotland \(Health and Education Chamber\)](#).

You are not on your own. The Tribunal's staff are here to help you.

There are two types of reference you can make to the Tribunal:

- A co-ordinated support plan (CSP) type.
- A capacity and wellbeing type.

To do this, please fill in this form.

You can use different ways to speak to us including writing, drawing, speaking in person or sending a video message. You can speak to the Tribunal about this.



To help you to fill in this form please read the Children's Guide on **How to Make a Reference** using this link: [Reference Form | First-tier Tribunal for Scotland \(Health and Education Chamber\)](#)

Your Representative



You have the right to have someone who will act as **your representative**. This can be a lawyer or someone who is not legally qualified.

You can choose whether you want a representative or not. If you don't want a representative the Tribunal will help you to present your case.

Name of representative:

Job title:

Organisation:

Address:

Telephone number:

Email address:

Making a different type of appeal (claim)



If you think you have not been treated fairly at school, then you can make a different type of appeal to the Tribunal called a **claim**.

To do this, you need to fill in the **Make a Claim** form which you will find on our **needs to learn** website using this link: [Claim Form | First-tier Tribunal for Scotland \(Health and Education Chamber\)](#).

Your Supporter



You can have a supporter in a hearing. This is not the same as a representative. Your supporter is there for you. They cannot speak to the Tribunal.

Name of supporter:

Address:

Telephone number:

Email address:

If you want more information about the role of a representative or a supporter, you can read pages 12 and 13 of the **Children's Guide on How to Make a Reference** using this link: [Reference Form | First-tier Tribunal for Scotland \(Health and Education Chamber\)](#)

Health and Education Chamber
First-tier Tribunal for Scotland



Additional Support Needs

Ms Emma Marriott
Judicial Appointments Board for Scotland

HEC recruitment 2026
specialist judicial office holders
(education, health and social work)

Recruitment Overview

- **Number and type of posts:** 8 (4 in education and 4 in health or social work).
- **Specialisms:** Education, Health, Social Work
- **Timeline**
- **Key stages:** Application, Shortlisting, Interview, Selection

Attracting Candidates

- **Advert location:** JABS website + other channels
- **Candidate information:** briefing pack, guidance, application form
- **Outreach:** professional networks, targeted engagement
- **Encouraging breadth:** diverse background, widening pool

Assessing Candidates

- **Application:** evidence of skills, experience, judgement
- **Shortlisting:** panel-based, criteria-driven
- **Panel:** judicial, legal, lay members
- **Interview:** tests expertise, judgement, communication
- **Fairness:** structured scoring, moderation, consistency

Selecting Candidates

- Recommendations made by panel
- Selection based on evidence and comparative assessment
- **Post-interview:** decisions, possible reserve list
- **Next steps:** appointment process and induction

Final message

- Process is fair, rigorous and evidence-based
- **Aim:** high-quality, credible future judicial office holders
- Focus on judgement, expertise and judicial qualities
- **Importance:** shaping the Chamber's future capability

Health and Education Chamber
First-tier Tribunal for Scotland



Additional Support Needs

Mr Craig Barr
Casework Operations Manager

Casework Update 2025/2026

Casework Overview

Total Applications received:

	References	Claims	Total
2019/20	122	24	146
2020/21	71	12	83
2021/22	117	16	133
2022/23	185	17	202
2023/24	229	15	244
2024/25	220	29	249
2025/26	247	29	276

References received by type

Type	19/20	20/21	21/22	22/23	23/24	24/25	25/26
Placing Requests	96	59	98	160	204	189	200
Contents of CSP	5	1	5	6	3	11	8
CSP Required	8	4	3	10	7	7	3
Implementation of CSP	4	2	3	2	2	0	4
Deemed Refusal of CSP	4	4	0	4	7	6	15
Timescales (Issue CSP)	1	0	3	0	0	5	5
Failure to Review CSP	3	1	2	0	2	0	1
Provision of additional support CSP	0	0	0	0	0	0	7
Transitions	1	0	3	3	4	2	3
Freestanding UNCRC	0	0	0	0	0	0	1
Totals	122	71	117	185	229	220	247

Claims received by type

Type	19/20	20/21	21/22	22/23	23/24	24/25	25/26
Admission	3	0	0	1	2	2	0
Other	13	7	9	7	6	17	11
Admission, Exclusion	0	2	1	0	0	0	0
Exclusion	4	2	2	4	0	1	6
Admission, other	0	1	1	1	1	2	3
Exclusion, other	4	0	3	2	4	7	8
Admission, Exclusion, other	0	0	0	2	2	0	1
Totals	24	12	16	17	15	29	29

Highest volume references and claims 2025/2026

Education Authority	Claim	Reference	Total
Glasgow City Council	1	70	71
North Lanarkshire Council	1	40	41
City of Edinburgh Council	4	20	24
West Lothian Council	1	20	21
South Lanarkshire Council	2	11	13
Perth & Kinross Council	2	9	11
Aberdeen City Council	1	9	10
Falkirk Council	1	9	10
Renfrewshire Council	5	4	9
Aberdeenshire Council	1	8	9
The Highland Council	1	8	9
Scottish Borders Council	1	6	7
East Dunbartonshire Council	1	3	4
Others	7	30	37
Total cases	29	247	276

Nature of Additional Support Needs 2025/2026

Additional Support Need	Claim	Reference	Total
Autistic Spectrum Disorder (ASD)	12	179	191
Social, emotional or behavioural difficulty	1	73	74
Other (Social, emotional or behavioural difficulty)	3	46	49
Mental Health Problem	2	39	41
English as an additional language	0	3	3
Hearing impairment	2	13	15
Interrupted learning	0	20	20
Language or speech disorder	1	44	45
Looked after	0	12	12
More able pupil	0	3	3
Physical health problem	1	26	27
Physical or motor impairment	2	20	22
Visual impairment	3	16	19
Specific Learning Difficulty	3	42	45
Other (Specific learning difficulty)	7	49	56
Moderate Learning Difficulty	1	476	477
Other (Moderate learning difficulty)	1	16	21
Totals	39	1077	1116

Moderate Learning Difficulty



Secure email addresses

- The Health and Education Chamber will no longer issue communication containing case details, case sensitive information or case bundles to any unsecure email addresses.
- Any paperwork to be issued to unrepresented appellants/claimants without a secure email address will be issued by post.

Health and Education Chamber
First-tier Tribunal for Scotland



Additional Support Needs

Professor Derek Auchie
In-house Legal Member

Judicial Update

A. HEC Case Law Update (1)

Comparator for reasonable adjustments

Fife Council v AB 2024 UT 72

- Lord Fairley refused the appeal against a decision that discrimination had occurred under the Equality Act 2010 (**2010 Act**). He decided which two groups should be compared when considering the requirement to make reasonable adjustments to provide an auxiliary aid (a British Sign Language interpreter and related support) under section 20(5) of the Equality Act 2010.
- Considering section 20(5), section 6(3)(b) and Schedule 13 paragraph 2 together, the correct approach was a ‘class-based’ one and the comparison here was between ‘deaf pupils generally’ (as a class) and ‘persons who are not disabled’.
- The class could be more specific such as ‘pupils with moderate deafness’, but that was not argued here.

A. HEC Case Law Update (2)

Test for Permission to Appeal

[EM v North Lanarkshire Council 2025 UT 76](#)

In holding that the FtT's reasons were 'well written and clear', Lady Poole re-emphasised the key adequacy test in *Wordie Property Co Ltd v Secretary of State for Scotland* 1984 SLT 345, namely to 'deal with the substantial questions in issue in an intelligible way'. The UTS referred to another (social security) UTS decision:

Reasons, to be adequate, do not require to involve consideration of every issue raised by the parties or deal with every piece of material in evidence. The decision of the FTS has to be read as a whole, in a straightforward manner, and recognising it is addressed to parties well aware of the issues involved.

A. HEC Case Law Update (3)

Meaning of 'special school'

A Scottish Council v LM 2025 UT 21

- The UTS decided that the majority had erred in concluding that the school specified in the placing request was a 'special school' as defined under section 29(1) of the 2004 Act:
 - ...the sole or main purpose [of the school must be] to provide education specially suited to the additional support needs of children and young persons selected for attendance at the school...by reason of those needs.
- Lady Poole explained the need to look at the meaning of that term broadly, considering the words within the 2004 Act as a whole, including the historical context of the legislation.

A. HEC Case Law Update (3)

Meaning of 'special school' (cont'd)

[A Scottish Council v LM 2025 UT 21](#)

- The UTS decided that the definition of the term embodied both a 'purpose' test and a 'selection' test.
- Purpose test: the sole or main purpose has to be to provide education specially suited to the particular type of additional support needs of the children selected to attend it.
- Selection test: pupils have to be selected for attendance at that school by reason of those needs.
- Admission of learners without additional support needs points away from the school being a special school, as does its absence from the National Register of Special Schools.

A. HEC Case Law Update (4)

Equality Act 2010 discrimination tests

[East Lothian Council v SH 2026 UT 14](#)

- The UTS considered the proper approach to the three main types of discrimination relied upon in the HEC.
- On discrimination arising from disability under section 15, Lady Poole held that the treatment must be identified first and then consideration given to whether or not it has been unfavourable. Just because treatment could be better does not make it unfavourable.
- Section 15 is about unfavourable treatment ‘because of something arising in consequence’ of disability; not less favourable treatment because of disability (which would be direct discrimination under section 13).

A. HEC Case Law Update (4)

Equality Act 2010 discrimination tests (cont'd)

[East Lothian Council v SH 2026 UT 14](#)

- On indirect discrimination under section 19, the PCP (provision, criterion or practice) must have a basis in the findings in fact. Also, the analysis using the 'justification' provision for section 15 (15(2)) should not be used in the similarly worded section 19(2)(d) since one is about unfavourable treatment, the other is about the PCP.
- On reasonable adjustments discrimination under section 20, the correct comparators must be used, taking into account paragraph 2 of Schedule 13 and the definitions there of 'disabled pupils' and 'disabled persons' (see also *Fife Council*).

A. HEC Case Law Update (5)

Public interest appeals

[AT v Argyll and Bute Council 2026 UT 36](#)

- Lady Carmichael refused appeal. Appellant argued that a legal question that would not affect the outcome of the case but that was of general public interest arose, and so it ought to be determined by the UTS (*TE v City of Edinburgh Council* 2024 UT 25 at paragraph 21).
- The legal question was whether the exclusion of a pupil from school qualifies as ‘unfavourable treatment’ under section 15 of the 2010 Act. This arose since there are FtT decisions that reach different conclusions on this point. It was argued that this creates undesirable uncertainty in the law.
- The appellant confirmed that there was one decision that reached a different conclusion from an otherwise consistent approach on the matter (that approach being that it is unfavourable). The UTS decided that it should not determine the point – there is no good reason in the public interest to do so when it is immaterial to the outcome of the case.

B. Use of the bundle in hearings

- The bundle contains all documents that may be referred to during a hearing. This means that no witness may consult any document not in the bundle during a hearing.
- Consulting a document includes reading it while giving evidence, whether or not the witness intends to mention it. The tribunal will intervene if it believes the witness may be looking at a non-bundle document.
- This is more likely to be an issue when the witness is giving evidence remotely.
- Where a witness states that they wish to refer to a document not in the bundle during their evidence, permission from the tribunal is required, and parties will be consulted on any such request.

C. Physical Intervention (1)

- The Scottish Government has published guidance on physical intervention in schools: [*Included, Engaged and Involved Part 3: A Relationships and Rights-Based Approach to Physical Intervention in Schools*](#)
- Non-statutory in status, but on page 2 there is an expectation that it will be used to review and revise policies.
- Carries definitions of 'physical intervention', 'restraint' and 'seclusion' (para 4)

C. Physical Intervention (2)

- Bill passed on 24 March 2026, and awaits Royal Assent: [Restraint and Seclusion in Schools \(Scotland\) Bill](#)
- Includes definitions of 'restraint' and 'seclusion' similar to those in the *Included, Engaged and Involved* guidance (clause 1(1)).
- Statutory duty to inform parents of the use of restraint or seclusion and the incident giving rise to it as soon as possible and in any event within 24 hours is created (clause 3).
- Statutory duty to record and report on the use of restraint and seclusion is created (clause 4).
- Bill applies to education authority managed schools, independent schools and grant-aided schools (clause 6(1)).

Health and Education Chamber
First-tier Tribunal for Scotland



Additional Support Needs



Enquires and Questions

Disability Information Scotland

Q1. Our helpline is taking a growing number of calls from parents of children with ASN who are excluded from school due to a lack of appropriate resources to support their children – many of these are autistic children. I am keen to learn anything from the Forum which will help me to signpost to them better and provide appropriate information.

South Lanarkshire Council

Q2. Consideration of the whole child and what is best for them alongside the legal terms. Sometimes what is best seems to get lost amongst this.

South Lanarkshire Council

Q3. UNCRC and Compensation.

South Lanarkshire Council

Q4. Realistic expectations of reasonable adjustments for EBSNA pupils.

East Dunbartonshire Council

Q5. Interested to know what the processes are for reviewing decision making and the implications of tribunal outcomes at LA level. Is there any process for this?

Glasgow City Council

Q6. We wish to ask a question to clarify the required standard of evidence.

Glasgow City Council

Q7. We wish to ask a question around the tribunal's expectations in relation to SNCT staffing ratios agreements.

Harmeny Education Trust Ltd

Q8. Are recommendations given to local authorities after tribunals if appropriate to help the process for future parents?

West Dunbartonshire Council

Q9. Follow-up data on impact of decisions on children, young people and families.

Orkney Island Council

Q10. Attendance of witnesses and use of witness statements in evidence.

Orkney Island Council

Q11. Priorities of the Tribunal in exclusions and use of interim orders.

Orkney Islands Council

Q12. The provisions for the voice of the child; Advocacy and Safeguarders.

Orkney Islands Council

Q13. The scope of the Tribunals powers in making final orders - what the parties can expect.

Angus Council

Q14. Review of co-ordinated support plans.

Angus Council

Q15. Implications for local authorities of the UNCRC Incorporation Act.

North Lanarkshire Council

Q16. The Tribunal allowing a period of assessment for child rather than placing them right away. This would ensure the correct placement is allocated and that decisions round the placement are child centred and based on assessment evidence.

Health and Education Chamber
First-tier Tribunal for Scotland



Additional Support Needs



Question and Answer Session

Contact Us

HEChamberPresident@scotcourtsribunals.gov.uk

0141 302 5863

www.healthandeducationchamber.scot

Additional Support Needs

We consider two types of appeals – references, regarding the provision of educational support under the 2004 Act; and claims, in respect of disability discrimination in school education, under the 2010 Act.

Additional Support Needs

Needs to Learn

If you're 12 to 15, have **additional support needs** and want to make a change to your school education, then **yes** you are.

www.needstolearn.scot

Needs to Learn



All children in Scotland should benefit from a school education. When this isn't happening we look at each child's individual circumstances and their unique **needs to learn**.

