





# Routes to resolution

## Step 1A

If you have any worries or concerns about your child's additional support needs, or if you are a young person 16 years or above\*, talk to a teacher or Child Development Officer as a first step. Schools and Nurseries usually have arrangements in place for contacting staff generally or a particular member of staff. Most concerns, worries can be dealt with at this early stage and you should feel reassured.

Here are some things to consider which might be of help.

### Positive Communication

- Assume that the school/centre/education authority is acting in good faith and that they are on the same side as you.
- Be aware that the school/centre/local authority has a duty to provide an adequate education for your child - not the best.
- Offer as much information about your child as you can.
- If you are concerned about a number of issues it may help to write down what you would like to say.
- Ask the questions that you want to ask.
- Accept that the school/centre/local authority is not there to agree with everything that you think.
- Keep the focus on your child's needs.

- Be ready to negotiate and compromise. The school also has an informed view about your child's needs.
- Express your child's educational needs as needs, not in terms of the resources or methods that might be used to meet them.
- Accept that there are limits on the school/centre/local authority which may make it difficult for them to accept your choices.
- Work with the school/centre/local authority to find solutions to these limits.
- If you would like a supporter look for someone who is open minded and willing to question you as well as the school/centre/local authority.

## Step 1B

If you have spoken to someone at your child's school or nursery and you still have concerns or worries, the next step is to be in touch with an officer within Glasgow City Council.

This officer could be a Quality Improvement Officer for your area or an officer that deals with additional support for learning.

If you feel your concerns have not been dealt with, the officer will give you information about other ways the matter may be dealt with. This includes your right to ask for independent mediation.

### FURTHER INFORMATION

Further information may be had by contacting Enquire: the Scottish Advice Service for Additional Support for Learning.

Enquire contact details:

Helpline 0345 123 2303, email [info@enquire.org.uk](mailto:info@enquire.org.uk), website [www.enquire.org.uk](http://www.enquire.org.uk)

(Call charges may apply)

\* Throughout this document, young person is used to signify those who are 16 years of age or over.

## Step 2

This step involves people who do not work for the education authority.

### a) Independent Mediation

Mediation is a way of resolving disagreements or misunderstandings early on to prevent them getting worse. Mediation is not like a tribunal or court. It allows you or your child, if they are aged 16 or over, to meet a relevant person from your child's early years establishment, school or education authority to try to agree a solution. You can have a supporter or advocate with you to help get your views across.

Independent mediation can help to build or re-build a positive relationship leading to co-operation in making arrangements for the child or young person. Mediation can help avoid conflicts that arise out of misunderstandings or lack of shared information. The aim is that disputing parties come to a shared agreement on how to resolve the problem themselves.

An independent and trained mediator will always be present. However they will not offer advice or make recommendations.

They will simply help both parties to find a satisfactory agreement that resolves the problem. The mediator does not act on behalf of either party and are independent from the education authority.

#### **Important to remember:**

- **Mediation is voluntary**
- **Mediation is private and confidential. 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**
- **Using mediation as a first option to resolve a disagreement or misunderstanding 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**

- **Mediation can be an opportunity for your child's views to be heard**
- **Mediation is easily arranged. Usually it takes only a few phone calls to set up.**

#### **Benefits of Mediation**

Opportunity for a full and respectful airing of differences.

Opportunity to negotiate by all involved.

Maintaining the focus on the needs of the child.

The parties can tailor their settlement to their particular situation.

Parties who negotiate their own settlements have more control over the outcome of their dispute.

Parties are generally more satisfied with solutions that have been mutually agreed upon, as opposed to solutions that are imposed by a third party decision-maker.

Many disputes occur in the context of relationships that will continue over future years. A mediated settlement that addresses all parties' interests can often preserve a good working relationships in ways that would not be possible in a win/lose decision-making procedure.

#### **Issues suitable for mediation include**

Restoring communication

Repairing broken relationships between parents and staff

School placements

Level of support for a child with additional support needs

Exclusion

Disagreements around planning and assessment

**Mediation is Independent:** Local authorities must ensure that parents have access to an independent mediation service free of charge. Although the service you use is likely to be commissioned by the local authority, it will be operating entirely independently.

**Impartial:** Mediators are not on anyone's side

**Private and confidential:** 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.

### **FURTHER INFORMATION**

Further information may be had by contacting Children in Scotland, Scotland's independent additional support for learning mediation and training service. Glasgow City Council also has a service level agreement with Children in Scotland to provide free mediation services to parents/carers as required.

Resolve contact details:

Sandra Mitchell, Mediation Manager

Phone 0131 313 8844, email [smitchell@childreninscotland.org.uk](mailto:smitchell@childreninscotland.org.uk), website [www.childreninscotland.org.uk](http://www.childreninscotland.org.uk)

**A first option:** Using mediation will not affect your rights if you want to take the matter further later on.

**Easy to arrange:** Usually it will only take a few phone calls for a session to be set up.

#### **A trained mediator**

- Facilitates open communication between the participants
- Creates a safe environment, allowing parties to interact and understand each other's point of view
- Is unbiased and impartial
- Clarifies points of agreement and disagreement
- Helps identify options
- Can produce a written statement of outcomes and agreements.

Any agreements are decided by the parties involved and as a mediator does not make decisions or recommend solutions.

#### **If you decide to use independent mediation here are helpful tips to preparing for a mediation session**

Think of possible ways/alternatives of solving the problem(s)

Think about what you want to get out the session

Think about what you want the other party to do

Think about what you are willing to do

Be willing to listen and compromise

Put aside personality conflicts.

#### **Quote**

*"Conflict is stressful and time-consuming. Mediation offers one of the best and quickest ways of improving working partnerships for all which ultimately benefits the children and young people's education pathway."*

*Sandra Mitchell, Mediation Manager, Children in Scotland*

More information to be found in Enquire Factsheet 8: Mediation at:

[www.enquire.org.uk/20100622/wp-content/uploads/2010/11/mediation.pdf](http://www.enquire.org.uk/20100622/wp-content/uploads/2010/11/mediation.pdf)

or obtain the Resolve: ASL flyer from

[www.childreninScotland.org.uk/our-services/resolve](http://www.childreninScotland.org.uk/our-services/resolve)

#### b) **Dispute Resolution**

Under the ASL Act, dispute resolution is available as one of the ways of resolving disagreements. Dispute resolution involves a formal review of your case by someone who is independent of you or the education authority and has expertise in dealing with children who have additional support needs. You, or your child, if aged 16 or over, should send an application to the Scottish Ministers in the first instance. They will contact the authority which must accept or reject the application within 10 working days of receipt.

If the application is accepted the nominated officer within the authority will send a response to the parent/young person. Both parties can send further observations to each other within 10 working days. The authority will send the application, response and observations to the independent adjudicator who will review the material. Unlike a mediator, the adjudicator will consider the circumstances leading to the disagreement, then reach a decision and make recommendations which will be forwarded to the parent/carer/young person by the authority along with the authority's decision.

#### **Some examples of when adjudication might be used**

If you are concerned about:

- Whether or not your child or you as young person have additional support needs
- in the case of a child or young person with additional support needs, the accuracy of the description of these needs
- the refusal of the education authority to respond to a request from you to establish whether your child or young person, for whose education they are responsible, has additional support needs
- the refusal of an education authority to respond to an assessment request from the parents/carers or young person
- the person carrying out an assessment or examination or the method of carrying it out
- the failure of the authority to provide, or make arrangements for the provision of, the additional support required by the child or young person, whether educational provision or not
- the failure of the education authority to request help from an appropriate agency\*.

#### **Dispute resolution does not cover**

- Disagreements over the refusal of a placing request
- Disagreements over exclusions
- Allegations of misconduct, or broader policy issues such as school closures or complaints about the way a school is run
- Allegations of misconduct, or broader policy issues such as school closures or complaints about the way a school is run.

More information to be found in Enquire Factsheet 12: Resolving disputes using independent adjudication also Factsheet 4: Resolving disagreements.

c) **Additional Support Needs Tribunals**

You or your child if aged 16 or over (and he/she has the capacity), can make a reference to an Additional Support Needs Tribunal for Scotland if you want to challenge a decision about a Co-ordinated Support Plan and in certain other circumstances.

The tribunal has produced a guide for people thinking of using the tribunal system. There is also an easy-read version available. You can get copies from the Additional Support Needs Tribunal Scotland at [www.asntscotland.gov.uk](http://www.asntscotland.gov.uk)

**You can appeal to the Tribunal if you are unhappy with:**

- A decision to prepare a plan for your child
- A decision not to prepare a Co-ordinated Support Plan for your child
- A decision to continue your child's plan following a review
- A decision to discontinue your child's plan following a review
- The length of time it is taking to decide whether your child needs a plan, to prepare the plan or review the plan. You can also appeal if the authority fails to review your child's Co-ordinated Support Plan
- A decision to refuse your request to find out if your child needs a Co-ordinated Support Plan or your request to have an early review of the Co-ordinated Support Plan.
- Some of the information in your child's Co-ordinated Support Plan
- The failure to provide the additional support stated in the plan
- A decision to refuse a placing request where a plan exists or is required but not yet prepared or if an appeal against a refusal of a placing request has not yet been considered

Even if there is no Co-ordinated Support Plan the Tribunal will hear appeals on:

- The refusal of a placing request to a specialist school or placement
- Failures over post-school transition duties
- Issues related to disability discrimination of children in the terms of the Equality Act 2010.

Also, your authority must inform you of your right to appeal to an Additional Support Needs tribunal in all the circumstances above.

More information to be found in 'Enquire Factsheet 4: Resolving disagreements'

[www.enquire.org.uk](http://www.enquire.org.uk)

d) **Education Appeals Committee**

The committee considers most mainstream placing request appeals unless they are within the jurisdiction of the Additional Support Needs Tribunal Scotland (see above) and most exclusion appeals unless the basis of the appeal is disability discrimination which is within the jurisdiction of the Additional Support Needs Tribunal Scotland.

**Support/Advocacy**

You might find it helpful to take a supporter or advocate to meetings. A supporter can be a friend, befriended or worker from a voluntary organisation. For advocacy services in your area, contact Enquire or the Scottish Independent Advocacy Alliance. Phone 0131 556 6443, website [www.siaa.org.uk](http://www.siaa.org.uk) Let's Talk ASN is the national advocacy service for appeals to the Additional Support Needs Tribunals about additional support for learning but not disability discrimination.

Phone 0141 445 1955, website [www.edlaw.org.uk](http://www.edlaw.org.uk)

**Courts**

Exceptionally, a few cases may go to:

**Sheriff Court**

This court can hear further appeals against decisions by the Education Appeals Committee about certain placing requests and exclusions.

**Scottish Ministers**

You can make a complaint to the Scottish Ministers if you think the local authority has failed to carry out its duties under education law.

This is called a Section 70 complaint.

**Court of Session**

A decision made by the Additional Support Needs Tribunal may be appealed on a point of law to the Court of Session in Edinburgh.

In cases where no other right of appeal is available, a decision made by an education authority or other public body may be challenged through judicial review by the Court of Session.

## Useful Contacts

### **Education Services, Glasgow City Council**

City Chambers, 40 John Street, Merchant City, Glasgow G1 1JL

Phone 0141 287 3655, email [education@glasgow.gov.uk](mailto:education@glasgow.gov.uk), website [www.glasgow.gov.uk](http://www.glasgow.gov.uk)

### **Psychological Services, Glasgow City Council**

#### **North West**

c/o Anderston Primary School, 3 Port Street, Glasgow G3 8HY

Phone 0141 276 2070

#### **North East**

c/o St Anne's Primary School, 35 David Street, Glasgow G40 2UN

Phone 0141 276 2170

#### **South**

c/o Battlefield Primary School, 44 Carmichael Place, Glasgow G42 9SY

Phone 0141 276 3270

### **Enquire**

The Scottish Advice Service for Additional Support for Learning

Helpline 0345 123 2303, email [info@enquire.org.uk](mailto:info@enquire.org.uk), website [www.enquire.org.uk](http://www.enquire.org.uk)

*(Call charges may apply)*

### **Children in Scotland**

Scotland's independent additional support for learning mediation and training service

Sandra Mitchell, Mediation Manager

Rosebery House, 9 Haymarket Terrace, Edinburgh EH12 5EZ

Phone 0131 313 8844, email [smitchell@childreninscotland.org.uk](mailto:smitchell@childreninscotland.org.uk), website [www.childreninscotland.org.uk](http://www.childreninscotland.org.uk)

### **Scottish Child Law Centre**

54 East Crosscauseway, Edinburgh EH8 9HD

Phone 0131 667 6333, email [enquiries@sclc.org.uk](mailto:enquiries@sclc.org.uk), website [www.sclc.org.uk](http://www.sclc.org.uk)

### **Scottish Independent Advocacy Alliance**

London House, 20-22 East London Street, Edinburgh EH7 4BQ

Phone 0131 556 6443, email [enquiry@siaa.org.uk](mailto:enquiry@siaa.org.uk), website [www.siaa.org.uk](http://www.siaa.org.uk)

### **Let's Talk ASN**

National advocacy service for appeals to the ASN tribunals about additional support for learning

Phone 0141 445 1955, email [letstalkasn@edlaw.org.uk](mailto:letstalkasn@edlaw.org.uk), website [www.edlaw.org.uk](http://www.edlaw.org.uk)

### **Additional Support Needs Tribunal Scotland**

Europa Building, 450 Argyle Street, Glasgow G2 8LH

Phone 0845 120 2906, email [asntsinquiries@scotland.gsi.gov.uk](mailto:asntsinquiries@scotland.gsi.gov.uk), website [www.asntscotland.gov.uk](http://www.asntscotland.gov.uk)

*(Call charges may apply)*

Glasgow City Council

### **Education Services**

City Chambers East

40 John Street

Merchant City

Glasgow G1 1JL

0141 287 2000

[www.glasgow.gov.uk](http://www.glasgow.gov.uk)