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## Education (Additional Support for Learning)(Scotland) Act 2004 WORKING TOGETHER AND RESOLVING DISAGREEMENTS

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Clear and regular communication between parents, children and young people and those who work with them is essential to build good relationships. Good communication together with information and support help to avoid disagreements or prevent them from escalating into more serious disputes.

It is expected that most disagreements can and will be resolved at school and Education Authority level with only a small number going to formal review procedures. The usual staged procedures for working through disagreements are:

- Step 1 Discussion with class teacher
- Step 2 Discussion with Head Teacher
- Step 3 Involving the Area Education Manager

Even with good practice there will occasionally be situations when agreement cannot be reached locally, tensions arise and a way forward has to be found. The Highland Council has worked closely with CHIP+ to produce this information sheet to give advice and guidance on routes of appeal should they be required.

This new Act sets out three new routes which parents and young people will be able to use to resolve disagreements - Mediation, Dispute Resolution and Additional Support Needs Tribunals.

### **MEDIATION**

Mediation is a way of resolving disputes with the help of an impartial third party, a mediator. The mediator works with parents, young people and staff together to enable them to explore options, make decisions and reach their own agreements. The mediator does not take sides and does not decide the terms of any agreement.

Mediation can help families and staff to build or rebuild a positive relationship leading to agreement over the arrangements to meet the child's Additional Support Needs. The overriding principle is that the people involved come to an agreement.

Mediation is completely confidential and any discussions held can only be shared if agreed by both sides.

The Highland Council has agreed that Children 1st will provide Mediation Services. The service is optional and free of charge to parents and young people. It is a voluntary service so there is no compulsion to make use of it. It is only to be used for issues concerning Additional Support Needs and can be used more than once.

**To request the use of the Mediation service please write to the Additional Support for Learning Co-ordinator, who will acknowledge your request and help make the arrangements.**

Sometimes an agreement still can't be reached and it may be necessary to think about Dispute Resolution.

## **DISPUTE RESOLUTION**

Dispute Resolution is a paper exercise to help resolve disagreements.

When this is requested The Scottish Executive will appoint an independent person, an adjudicator. The adjudicator will look at the information provided by both the parents and young person and The Highland Council in order to get a clear understanding of both sides of the disagreement. The adjudicator will then make recommendations to everyone involved. The process should take about 8 weeks.

### **When is Dispute Resolution Used?**

Dispute Resolution is normally used when a child or young person has Additional Support Needs but DOES NOT have a Co-ordinated Support Plan. However, where there is a Co-ordinated Support Plan, Dispute Resolution can be used where parents or young people feel that the contents of the Co-ordinated Support Plan are not being met.

Dispute Resolution can be used when there are disagreements about:

- The assessment of Additional Support Needs
- The level of additional support required or being provided eg. auxiliary support, support from another agency.

It is expected that in all but exceptional circumstances the decision of the adjudicator will be accepted by the Authority.

**Requests for Dispute Resolution should be made in writing to the Additional Support for Learning Co-ordinator who will acknowledge your request and make the necessary arrangements.**

## **ADDITIONAL SUPPORT NEEDS TRIBUNALS**

Parents and young people have a right to refer to an Additional Support Needs Tribunal when they disagree with a decision made by The Highland Council with regard to a Co-ordinated Support Plan.

- Additional Support Needs Tribunals will deal **only** with matters relating to Co-ordinated Support Plans (CSP).
- The Tribunal is a panel of independent people who will make a decision about a Co-ordinated Support Plan where there is disagreement between parents and/or young people and The Highland Council.
- There will be three members, one of whom will have a legal background, the others will be experienced in Additional Support Needs.
- Parents and young people will have 2 months after receiving a decision letter from the Education Authority to refer the matter to the Tribunal if they disagree with the Authority's decision.

**The aims of the Tribunal are:**

- To make sound, independent and expert judgements
- To be user friendly through informal and flexible in the way they work, and make it easy for people to use the service
- To discourage formal, legal proceedings by providing a forum for constructive discussion
- To make decisions which reflect best practice in relation to Additional Support Needs

The Tribunal must take account of the Code of Practice, produced by the Scottish Executive, which explains the new duties on The Highland Council and sets out good practice. The Tribunal will base their consideration of the facts of the case on how well the Authority has had regard to the Code before the hearing.

### **What Matters can be Referred to a Tribunal?**

Parents and young people can refer to a tribunal if they disagree with the decision that The Highland Council has taken:

- To Prepare a Co-ordinated Support Plan (CSP)
- Not to prepare a CSP
- To continue a CSP

- To discontinue a CSP
- About the time scales of a CSP
- Not to comply with a request to establish whether a child or young person requires a CSP

Where a CSP already exists parents or young people can refer to the Tribunal on:

- The information contained in the CSP
- Failure of the Authority to review a CSP at the end of 12 months
- Failure of the Authority to review a CSP within the timescales of the regulations
- The decision of the Authority to refuse a request from a parent or young person to review the CSP
- The decision of the Authority to refuse a placing request. (This also applies if a CSP is not yet prepared but there is intention to do so)

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**FOR MORE INFORMATION PLEASE CONTACT**

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