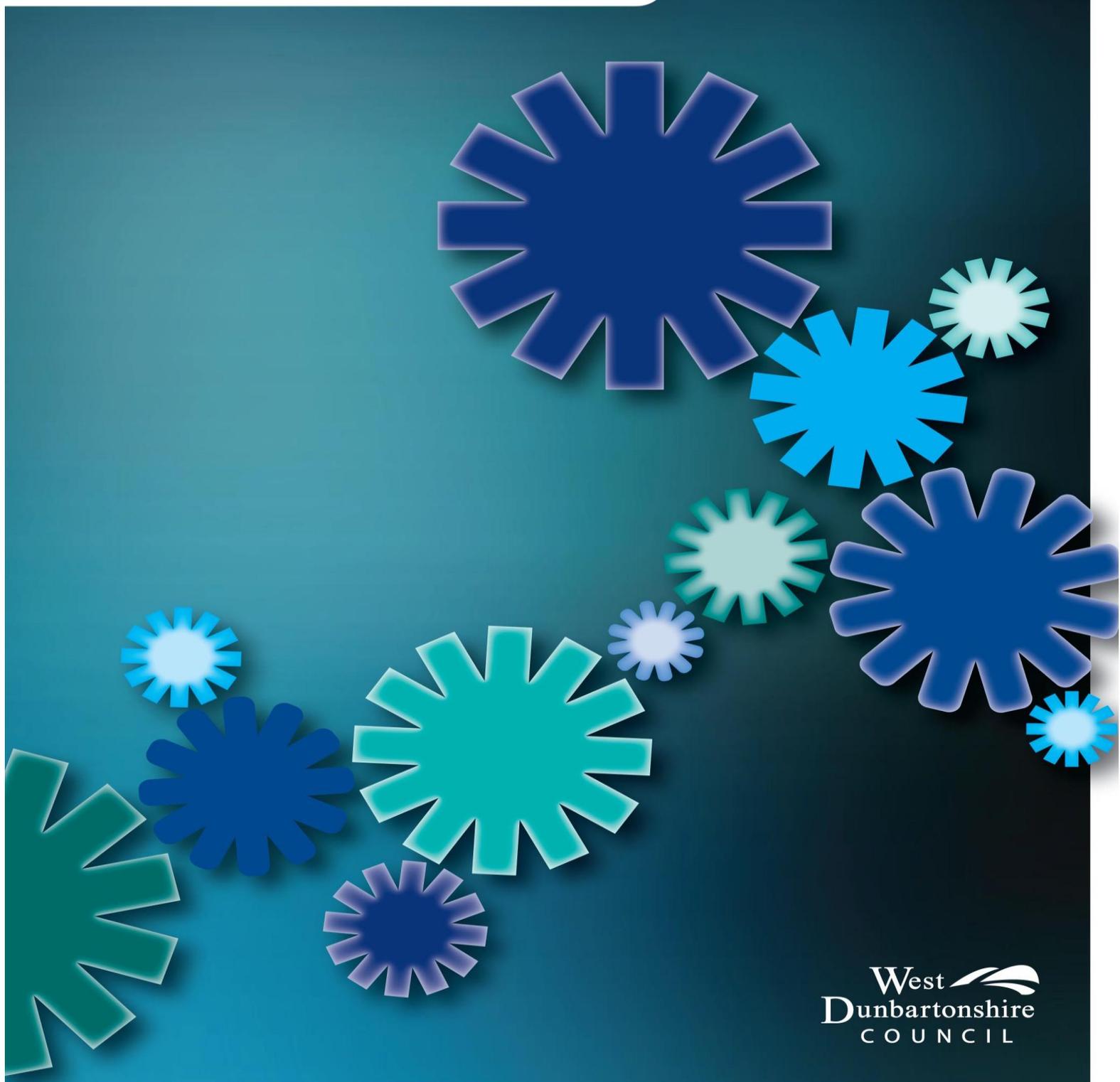


## EDUCATIONAL SERVICES

# A guide to: Getting Help and Resolving Disagreements: Dispute Resolution

Amended December 2015





# **A guide to: Getting Help and Resolving Disagreements: Dispute Resolution**

## **Arrangements for resolving disagreements**

The Education (Additional Support for Learning) (Scotland) Acts 2004 and 2009 create arrangements for resolving disagreements.

### **If you have a dispute:**

- Talk to staff at your child's school.
- Talk to an officer of West Dunbartonshire Educational Services for advice and options.

### **In exceptional circumstances where it has not been possible for an agreement to be reached, parents have 4 alternatives:**

- Mediation (see separate information sheet)
- Dispute Resolution
- Education authority appeal committees – for disputes other than additional support needs
- Additional Support Needs Tribunal for Scotland (ASNTS) – for disputes concerning co-ordinated support plans (see separate information sheet)

This leaflet tells you how dispute resolution works.

## What is dispute resolution?

Dispute Resolution allows for a formal review of a disagreement by an independent expert (an adjudicator). The adjudicator will look at information provided by both sides.

## What kind of disagreements can be referred to dispute resolution?

Disagreements may be about:

- the assessment of additional support needs;
- the level of provision required or being provided to meet additional support needs;
- support from another agency (e.g. Health, Social Work Services) required to help the local authority meet a child's needs;
- implementation of the requirements of a co-ordinated support plan.

## What is not covered by dispute resolution?

Dispute resolution **does not** cover matters which can be taken through other statutory review routes, such as the Scottish Courts and Tribunals Service or local authority Appeals Committees.

It does not therefore cover:

- refusal of a placing request under Schedule 2 of the Act;
- issues relating to broader, strategy or policy matters;
- allegations of misconduct;
- personal disputes between parents and a member of staff at the school or education authority;
- concerns regarding the education of a child who does not have additional support needs.

### What do you need to do to have a disagreement referred to dispute resolution?

Parents must make a request in writing to the education authority asking for the disagreement to be referred to dispute resolution.

The application must include:

- details of the applicant (parent/guardian);
- details of the child or young person who is the subject of the application;
- the matter which is the focus of the disagreement and the circumstances which led to the disagreement;
- a copy of any advice, information or any decision of the education authority which the applicant wishes to be taken into account by the education authority and the independent adjudicator on considering the application.

The applicant must also:

- provide an outline of the grounds on which the issue is to be considered by the adjudicator;
- give their view of the means by which the matter might be resolved;
- where appropriate, include in the application any views expressed by the child or young person.

### What will happen after I make an application to dispute resolution?

When the education authority receives your written request, they must:

- decide if the subject of the disagreement is covered by the Dispute Resolution Regulations;
- decide if you have provided all the necessary information for the application to be considered;
- review the information you have provided and all the circumstances surrounding the disagreement with a view to establishing whether all appropriate steps have been taken to resolve the disagreement.

At this point it may still be possible for the education authority to agree on an acceptable resolution to the disagreement without having to proceed with the formal dispute resolution process.

Where the application does require to go forward, the education authority will ask Scottish Ministers to nominate an adjudicator from the panel of independent experts, who will consider the case.

The local authority will prepare information on the dispute which will be sent to the independent adjudicator and to the applicant.

This information will include:

- a written summary of the authority's views on the circumstances leading to the application;
- the authority's views on the application and the information provided by the applicant;
- any additional relevant information which has not been included by the applicant;
- the authority's views on how the disagreement might be resolved.

## What will the independent adjudicator do?

The role of the adjudicator is to review, objectively and independently, all the information provided by the applicant and the local authority. The adjudicator then makes recommendations to both parties on the best way forward to ensure that the child's learning is supported within the terms of the Act.

The adjudication process involves reading written information regarding the case. However, the adjudicator will be able to ask the applicant and the local authority for further information or clarification if required. In exceptional circumstances the adjudicator may arrange to meet the applicant and/or a representative from the local authority.

After reviewing all the information provided, the adjudicator will provide a written report to the local authority with recommendations as to how the dispute should be resolved. The adjudicator will also write to the applicant to let them know that the review has been completed.

The local authority then has a short period of time to review the report and recommendations and inform the applicant in writing of their decision and reasons for accepting or rejecting the recommendations. If the recommendations are accepted the authority will also detail how they will respond to the recommendations. The authority will also provide the parent with a copy of the independent adjudicator's report and recommendations.

The education authority does not have a legal duty to implement the conclusions of the adjudication, but it is expected that in most cases both parties will accept the outcome of the process. The education authority has a duty to write to the applicant giving reasons for their decision to accept or reject the adjudicator's recommendations.

## How long will dispute resolution take?

Each step of the process outlined above must be carried out within a specified timescale. As a result it is expected that in most cases the process of independent adjudication should not normally take more than 8 weeks from the time that the education authority writes to the parent to say that the application is being taken forward.

In some exceptional cases it may take longer, for example, where request for dispute resolution is made close to or during school holiday period, or where either the applicant or the local authority requires to provide more information after the initial referral.

Where an application for a particular issue has been referred to an independent adjudicator a further application regarding the same disagreement cannot be made within a 12 month period.

You can find out more about dispute resolution by accessing the Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005 (Scottish Statutory Instrument 2005 No. 501) on line at [www.opsi.gov.uk](http://www.opsi.gov.uk)

## **Further information can be obtained from**

Enquire

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

Scottish Government

[www.scotland.gov.uk/Topics/Education](http://www.scotland.gov.uk/Topics/Education)

Education Scotland

[www.educationscotland.gov.uk/supportinglearners/additionalsupportneeds/index.asp](http://www.educationscotland.gov.uk/supportinglearners/additionalsupportneeds/index.asp)

West Dunbartonshire Council

<http://www.west-dunbarton.gov.uk/education-and-learning/additional-support-needs>

Additional Support Needs Tribunal for Scotland (ASNTS)

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

Govan Law Centre

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

## **Leaflets in this series**

A guide to...

- Accessing Specialist Provision in West Dunbartonshire Council
- Additional Support Needs Legislation
- Additional Support Needs in West Dunbartonshire Council
- Dyslexia
- Getting Help and Resolving Disagreements:
  - Mediation;
  - Dispute Resolution;
  - Additional Support Needs Tribunal for Scotland (ASNTS)
- Getting it Right for Every Child (GIRFEC)
- Going to Meetings to Discuss Your Child
- Staged Intervention
- The Central Support Service
- The Co-ordinated Support Plan (CSP)
- The Pre-school Assessment Team (PreScAT)

**For more information contact: Additional Support Needs enquiries:**

Chris Smith, Education Manager – Children’s Services (01389 737374)  
Anne Marie McDonald, Central Support Co-ordinator (0141 562 2492)  
Pat Montgomery, Quality Improvement Officer (01389 737443)

**Other formats**

This document can be provided in large print, Braille, audio cassette, and can be translated into different languages.

Please contact:

Corporate Communications, Council Offices, Garshake Road,  
Dumbarton, G82 3PU

本文件也可應要求，製作成其他語文或特大字體版本，也可製作成錄音帶。  
अनुरोध पर यह दस्तावेज़ अन्य भाषाओं में, बड़े अक्षरों की छपाई और सुनने वाले माध्यम पर भी उपलब्ध है

ਇਹ ਦਸਤਾਵੇਜ਼ ਹੋਰ ਭਾਸ਼ਾਵਾਂ ਵਿਚ, ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਆਡੀਓ ਟੇਪ 'ਤੇ ਰਿਕਾਰਡ ਹੋਇਆ ਵੀ ਮੰਗ ਕੇ ਲਿਆ ਜਾ ਸਕਦਾ ਹੈ।

درخواست پر یہ دستاویز دیگر زبانوں میں، بڑے حروف کی چھپائی اور سننے والے ذرائع پر بھی میسر ہے۔