

What if we can't agree?

A Guide for Parents and Carers



Special educational needs and disabilities

What if we can't agree?

Sometimes parents of children with special educational needs (SEN) are worried or unhappy with their child's progress or the way in which their child's needs are being met. If you have concerns about your child it will help if you:

- always speak with your child's teacher as soon as you have any worries;
- share all the information you have about your child with other people involved in his or her education;
- try to attend meetings about your child – you can take someone with you if it helps;
- prepare well for meetings. For example, make a list of the questions you want to ask and take along as much information as you can about your child's special educational needs;
- keep your own records of meetings, telephone calls, letters and reports in a folder;
- ask to see the school's policy on SEN;
- keep in contact with the Local Authority (LA) if it is carrying out a statutory assessment of your child's needs or your child has a Statement.



The Parent Partnership Service can help you with any of these, and can also put you in contact with local parents' groups or voluntary organisations.

Who can I talk to at school?

If you have any worries, it is important that you talk things through as soon as possible. You should let your child's teacher know your views so that you can try to solve any problems together. You can talk to:

- your child's teacher, form tutor or head of year;
- the Special Educational Needs Co-ordinator (SENCO) or equivalent;
- the Headteacher;
- the governor with responsibility for special educational needs.

What other support is available for parents?

- Torbay's Independent Parent Partnership Service, including Independent Parental Supporters
- LA Support Services, such as the SEN Officer, Educational Psychologist and/or Pupil & Parent Liaison Officer
- parent support groups
- local and national voluntary organisations

If you would like some support at a meeting, you can ask for a friend, relative or someone from a voluntary group to go with you. You can also ask for the help of an Independent Parental Supporter (IPS). An IPS is a volunteer trained by Parent Partnership to offer help and support to parents of children with special educational needs.

What is Disagreement Resolution?

Sometimes it is difficult to reach agreement. The process of disagreement resolution may

help parents, schools and LA's when there is a dispute about SEN provision. It may also help when there is a disagreement about a disability discrimination matter.

Disagreement resolution (or mediation) can provide an opportunity for parents and school, or LA staff, to meet with a third person that is not involved in the disagreement. The aim is to find a way forward that everyone can agree with and that will last.

A mediator will meet with parents and schools or LA staff. The mediator does not take sides, but will listen and find out what has been happening. Mediators are skilled in helping to sort out disagreements and have knowledge of SEN and disability issues.

Disagreement Resolution:

- is free;
- is independent of both schools and the LA;
- is confidential – nothing you say will be passed on;
- is voluntary – nobody can force you to take part and everyone involved must want to find a way to reach an agreement;
- does not affect your right to appeal by tribunal.

The Parent Partnership Service can give you more information about the Disagreement Resolution Service or mediation service for disability discrimination.



What is the Special Educational Needs and Disability Tribunal?

You may have a right to appeal to the Special Educational Needs and Disability Tribunal (SENDIST). The tribunal is independent and will consider parents' appeals when they disagree with the LA about SEN matters. SENDIST will also hear claims about disability discrimination.

When you can appeal

You can appeal to the tribunal on SEN matters if the LA:

- refuse to carry out a statutory assessment of your child's special educational needs, unless an assessment has been made within the previous 6 months;
- refuses to issue a statement after making a statutory assessment.

You must appeal within 8 weeks of the date that you receive the decision from the LA.

If the LA has made a statement of your child's special educational needs, or has changed a previous statement, you can appeal against:

- the description of your child's special educational needs in part 2 of the Statement;
- the help that the LA think your child should get described in part 3 of the Statement;
- the school named in part 4 of the statement;
- the LA not naming a school in part 4 of the statement.

You can also appeal if the LA:

- refuses to change the school named in Part 4, if the statement is at least a year old;
- refuses to reassess your child if the LA has not made a new assessment for at least 6 months;
- decides not to maintain your child's statement;
- decides not to change the statement after reassessing your child.

When you cannot make an appeal

You cannot appeal to SENDIST about:

- the way the LA carried out the assessment, or the length of time it took;
- the way the LA is arranging to provide the help set out in your child's statement;
- the way the school is meeting your child's needs;
- the description of your child's non-educational needs or how the LA plans to meet those needs in parts 5 and 6 of the Statement;
- the LA refusing to name an independent or non-maintained school where you asked for a change in a statement which is over a year old;
- the LA refusing to amend the statement after a yearly review.

Please remember that if you do disagree with an LA decision, you should let the Special Needs Department know. They will listen to your concerns and try to reach agreement with you. If you are still unhappy, you can ask for disagreement resolution and appeal to SENDIST.

A booklet explaining how to appeal is available from the Parent Partnership Office, the LA or directly from SENDIST (see below).

Disability Discrimination

You can make a claim of disability discrimination about:

- admissions;
- exclusions;
- education and services linked to education.

Although schools and LA's must have plans and strategies to make school premises more accessible to disabled pupils you cannot make a claim because a school is not fully accessible.

If you make a claim, SENDIST will need to be sure that:

- your child is disabled;
- the alleged discrimination was connected to your child's disability;
- the alleged discrimination is not justified.

Your claim will be against the 'responsible body'. This may be the governing body of your child's school, the LA or the owner (if your child attends an independent school). The SEN and Disability Tribunal hear most claims for disability discrimination, though other appeals panels hear some claims.

If the tribunal find that discrimination has taken place they can order the responsible body to do anything reasonable to put right the discrimination, short of paying financial compensation.

A booklet explaining how to make a claim of disability discrimination is available from the

Parent Partnership Service, the LA or directly from SENDIST.

Where can I find out more about the Special Educational Needs and Disability Tribunal?

The two main publications for parents are:

Special Educational Needs:

How to Appeal

Disability Discrimination in Schools:

How to Make a Claim

You can get a free copy of each booklet from the Special Educational Needs and Disability Tribunal by contacting:

SEN Helpline: **01325 392 555**

Discrimination Helpline: **020 7925 5750**

e-mail: **tribunalqueries@SENDIST.gsi.gov.uk**

Website: **www.sendist.gov.uk**

If you require this leaflet in a different format or language, or want further information and support, please contact:

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This leaflet has been produced in collaboration with the Southwest & Eastern Regions Parent Partnership Groups