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1 July 2010

Dear Consultee

**THE EQUALITY ACT 2010: CONSULTATION ON SECONDARY LEGISLATION THAT WILL ENABLE THE ADDITIONAL SUPPORT NEEDS TRIBUNALS FOR SCOTLAND (ASNTS) TO HEAR DISABILITY CLAIMS CASES IN SCHOOL EDUCATION.**

I am writing to invite you to respond to a consultation paper on secondary legislation providing new rules of procedure for the Additional Support Needs Tribunals for Scotland (ASNTS), to enable them to hear disability claims cases in school education. This consultation seeks your views on the proposed secondary legislation. Your views will contribute to the development of the new rules required by the ASNTS to deal with their expanded jurisdiction.

This consultation paper, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

Responses are required by **24 September 2010**. The consultation questionnaire is provided at **Annex A** of the consultation paper. **Please send your response with the completed Respondent Information Form (see "Handling your Response" below) also at Annex A to:**

[EqualityAct@scotland.gsi.gov.uk](mailto:EqualityAct@scotland.gsi.gov.uk)

If you have any queries contact Claire Killen at:

[claire.killen@scotland.gsi.gov.uk](mailto:claire.killen@scotland.gsi.gov.uk)

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General information about the Scottish Government consultation process can be found at **Annex B** of the consultation paper.

We would be grateful if you would submit electronic responses, using the consultation questionnaire provided at **Annex A** of the consultation paper, as this will aid our analysis of the responses received.

The Scottish Government now has an email alert system for consultations (**SEconsult**: <http://www.scotland.gov.uk/consultations/seconsult.aspx>). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SEconsult complements, but in no way replaces, Scottish Government distribution lists and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

A list of organisations that are being consulted is attached at **Annex C** of the consultation paper. Please feel free to alert any organisations or individuals that we have omitted, and you think should be consulted.

## Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** (attached at **Annex A** of the consultation paper) as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002, and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library (see the Respondent Information Form), by Autumn 2010. You can make arrangements to view responses by contacting the Scottish Government Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

## What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on the secondary legislation. We aim to issue a report on this consultation process by Autumn 2010 and make changes to the ASNTS rules by early 2011.

## Comments and complaints

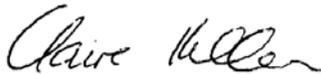
If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Claire Killen

Address: Support for Learning, The Scottish Government, Victoria Quay, Leith, EH6 6QQ

E-mail: [claire.killen@scotland.gsi.gov.uk](mailto:claire.killen@scotland.gsi.gov.uk)

Yours sincerely



**Claire Killen**  
**Support for Learning Division**  
**Scottish Government**

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LEGISLATION THAT WILL ENABLE THE ADDITIONAL  
SUPPORT NEEDS TRIBUNALS FOR SCOTLAND (ASNTS) TO  
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Consultation Paper

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Consultation Paper

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ISBN: 978-0-7559-9444-1 (web only)

The Scottish Government

St Andrew's House

Edinburgh EH1 3DG

Produced for the Scottish Government by APS Group Scotland

DPPAS10286 (07/10)

Published by the Scottish Government, July 2010

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## Introduction

1. This consultation paper seeks your views on proposed secondary legislation, following [the Equality Act 2010](#) (the Equality Act), which will enable the Additional Support Needs Tribunals for Scotland (ASNTS) to hear disability claims (discrimination, harassment and victimisation) cases in school education. The ASNTS was established in November 2005 by [The Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (as amended by [The Education \(Additional Support for Learning\) \(Scotland\) Act 2009](#)) (ASL Act 2004 as amended) to hear cases involving children and young people with additional support needs who have a dispute with their education authority, which could not be resolved by less formal means. The Equality Act will extend the Tribunal's jurisdiction to also hear disability claims in school education, and Scottish Ministers must make secondary legislation containing new rules of practice and procedure to enable the Tribunal to hear these cases. The Equality Act will have a staggered commencement.

2. Details of the proposed secondary legislation are provided in the consultation paper and you will be asked questions on the legislation, where appropriate. Please answer these questions using the consultation questionnaire provided at **Annex A**, and return this form along with the completed Respondent Information Form also at **Annex A**, to [EqualityAct@scotland.gsi.gov.uk](mailto:EqualityAct@scotland.gsi.gov.uk)

Responses are required by **24 September 2010**. Your views will contribute to the development of the rules and regulations of the ASNTS. General information about the Scottish Government consultation process can be found at **Annex B** and a list of organisations that are being consulted is attached at **Annex C**. If you have any queries contact Claire Killen at:

[claire.killen@scotland.gsi.gov.uk](mailto:claire.killen@scotland.gsi.gov.uk)

or

Claire Killen  
Support for Learning  
The Scottish Government  
Victoria Quay  
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Prior to focussing on the proposed secondary legislation, the consultation paper will commence with an examination of the background to extending the jurisdiction of the ASNTS, including further information on the Equality Act and the current jurisdiction of the ASNTS.

## **Background**

### **Introduction to the Equality Act 2010**

3. The Equality Act aims to strengthen the law to support progress on equality. The Act consolidates and harmonises a range of equality legislation, replacing familiar laws such as the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995.

4. The Equality Act provides protection from discrimination, harassment and victimisation based on a range of 'protected characteristics'. These characteristics are defined in the Act as race, sex, disability, sexual orientation, religion or belief, age, gender reassignment, pregnancy and maternity, and marriage and civil partnership.

5. Discrimination means, in a particular situation, treating someone with a protected characteristic less favourably than someone would be treated who does not have that characteristic. The treatment must be because of that characteristic. Harassment is unwanted behaviour towards someone with a relevant protected characteristic, which has the purpose or effect of violating the dignity of that person, or creating for them an intimidating, hostile, degrading, humiliating or offensive environment. Victimisation occurs when a person, with or without a protected characteristic, is treated badly because they have taken action related to the Equality Act, such as making, or helping someone to make, a discrimination claim. Part 2 of Chapter 2 of the Act defines discrimination, harassment and victimisation in more detail.

6. Part 6 of Chapter 1 of the Act relates to school education and makes it unlawful for education bodies to discriminate against, harass or victimise a school pupil, or prospective school pupil, in relation to the terms on which it offers him or her admission, by not admitting him or her, or in the way it treats the pupil once admitted, because of their disability.

7. Schedule 17 of the Equality Act deals with enforcement of the Act's provisions for pupils, with Part 3 applying to the ASNTS. Paragraph 8 of Part 3 states that a claim that Chapter 1 of Part 6 has been contravened will be made to the Tribunal by the person's parent or, where the person has capacity to make the claim, the person.

### **Extending the Jurisdiction of the ASNTS to Hear Disability Claims Cases**

8. The power of the ASNTS is currently conferred by The ASL Act 2004 as amended, which confers upon the Tribunal jurisdiction over cases relating to additional support needs. More specifically, under section 18 (1) of the ASL Act 2004 as amended, a young person (where they have the capacity) or the parent of a child, or young person who does not have capacity, may refer to the ASNTS certain decisions, failures, or information in relation to a co-ordinated support plan or placing request for any child or young person whose school education an Education Authority is responsible.

9. Part 3 of Schedule 17 to the Equality Act will extend the power of the ASNTS to include all disability claims cases, which covers discrimination, harassment and victimisation, for all Scottish Schools. Currently, disability discrimination cases in school education are heard by the Sheriff Court in Scotland; this jurisdiction will be transferred to the ASNTS. The reasons for making a claim are not changing. Harassment and victimisation relating to disability in school education have been newly introduced by the Equality Act.

10. The ASNTS will hear cases involving education authorities and, for the first time, independent and grant-aided schools, and also children who may not have additional support needs (and therefore fall outwith the ASL Act 2004 as amended). The cases will be related to the provision of education and associated services, as well as those concerning admissions and exclusions.

### **Reasons for Extending the Jurisdiction**

11. The policy behind extending the jurisdiction of the ASNTS to hear disability claims cases is based on the premise that the Tribunal aims to provide independent and expert decision making, in an impartial, efficient and effective manner, and seeks to be user-friendly through informal and flexible proceedings and to be accessible to all users.

### **Previous Consultation on Extending the Jurisdiction**

12. From June to August 2007, the Scottish Government undertook a consultation in Scotland to obtain the views of key stakeholders regarding the proposal to transfer disability discrimination cases from the Sheriff Court to the ASNTS. In addition to the consultation, a national seminar took place on the 20 August 2007.

13. The general view of stakeholders was that disability discrimination cases should be transferred to the ASNTS, mirroring the situation in England and Wales. Some key stakeholders were also in favour of extending the powers of the ASNTS to hear disability discrimination appeals relating to schools admissions and exclusions in education authority schools. These appeals are heard by Education Appeals Panels in England and Wales.

14. The extension of the ASNTS jurisdiction to hear all disability discrimination cases in school education was agreed with Adam Ingram, Minister for Children and Early Years. The Equality Act extends the jurisdiction of the ASNTS further to include disability harassment and victimisation cases.

### **Power of Scottish Ministers to Extend the Jurisdiction**

15. Paragraph 11 of Schedule 1 to the ASL Act 2004 as amended states that Scottish Ministers must make rules as to the practice and procedure of the ASNTS. These rules are detailed in [The Additional Support Needs Tribunals for Scotland](#)

[\(Practice and Procedure\) Rules 2006](#) (as amended by [The Additional Support Needs Tribunals for Scotland \(Practice and Procedure\) Amendment Rules 2010](#)), and reflect that the ASNTS deals only with cases relating to additional support needs.

16. Paragraph 10 of Part 3 of Schedule 17 to the Equality Act confers a power on Scottish Ministers to make secondary legislation providing new rules of procedure for the ASNTS, to enable the Tribunal to hear disability claims cases. The section that follows details the secondary legislation that Scottish Ministers propose to make. **The purpose of this consultation is to seek your views on the proposed secondary legislation.**

### **Proposed Secondary Legislation**

17. Many of the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006, as amended by the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2010 (referred to hereafter as the ASL rules as amended), are generic to the Tribunal process. The intention, therefore, is that the secondary legislation detailing the new rules of procedure for the ASNTS (referred to hereafter as the secondary legislation), which will enable the Tribunal to hear disability claims cases, will be based, as far as possible, on the existing rules in place for the Tribunal, and contained in a separate set of rules, called The Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2010. The secondary legislation will not replace the ASL rules as amended. There will be two sets of rules for the ASNTS.

*Q1. Do you agree that the secondary legislation, which will enable the ASNTS to hear disability claims cases, should be based on the existing ASL rules as amended?*

*Q2. If you disagree with Q1, please state your reasons why.*

*Q3. Do you agree that the secondary legislation should be provided in a separate set of rules to the ASL rules as amended?*

*Q4. If you disagree with Q3, please state your reasons why.*

18. The consultation is limited because issues that are set in the Equality Act, such as the right to appeal to the Court of Session against a decision of the Tribunal, must be included in the secondary legislation. Also, if, as proposed, the secondary legislation is based on the ASL rules as amended, it is not necessary to consult with you on all parts of the secondary legislation. Firstly, information from the ASL rules as amended that is generic to the Tribunal process is appropriate to the Equality Act and will be included in the secondary legislation. Secondly, there is no flexibility when changing some information from the ASL rules as amended for the secondary legislation, such as changing the definition of ‘the Act’ from the Education (Additional Support for Learning) (Scotland) Act 2004 to the Equality Act 2010. Finally, because the two sets of rules have a different legislative base (the ASL rules as amended are based on the legislation in the ASL Act 2004 as amended, whereas the secondary

legislation is based on the provisions set out in the Equality Act), any references in the ASL rules as amended to co-ordinated support plans, placing requests, education appeal committees or mediation and dispute resolution are not relevant to the Equality Act, and will be omitted from the secondary legislation.

Your views are sought on aspects of the secondary legislation in which there is flexibility in what is included. These aspects are detailed below, and have been taken either from the ASL rules as amended and must be changed/elaborated on for the secondary legislation, or from the existing Sheriff Court Rules and may be relevant for the secondary legislation.

**The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006, as amended by the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Amendment Rules 2010 (the ASL rules as amended).**

19. The respondent to a Tribunal reference is referred to in the ASL rules as amended as ‘the authority’, meaning the education authority. This term is not sufficient under The Equality Act because the ASNTS will hear disability claims cases involving not only education authorities, but also independent and grant-aided schools. Respondents under the Equality Act are defined as an education authority, the managers of a grant-aided school or the proprietor of an independent school, and are referred to collectively in the Equality Act as the ‘responsible body’ for a school. A change in terminology to ‘responsible body’ is therefore proposed for the secondary legislation.

*Q5. Do you agree that the term ‘responsible body’ should be used to replace ‘the authority’?*

*Q6. If you disagree that the term ‘responsible body’ should replace ‘the authority’, please state your reasons why and suggest a suitable alternative.*

20. The term ‘appellant’ is used in the ASL rules as amended for the person who makes a reference to the Tribunal appealing a decision of an education authority regarding a co-ordinated support plan or placing request. In contrast, for disability claims cases, a claim that the responsible body has unlawfully discriminated, harassed or victimised a person will be brought to the Tribunal. A change in terminology to ‘claimant’ is therefore proposed for the secondary legislation.

*Q7. Do you agree that the term ‘claimant’ should be used to replace ‘appellant’?*

*Q8. If you disagree that the term ‘claimant’ should replace ‘appellant’, please state your reasons why and suggest a suitable alternative.*

21. The term ‘reference’ is used in the ASL rules as amended to mean an appeal made to the Tribunal about an education authority’s decision regarding a co-ordinated support plan or placing request. For disability claims cases, claims that

the responsible body has unlawfully discriminated, harassed or victimised a person will be brought to the Tribunal, as opposed to references, therefore the term 'claim' is proposed for the secondary legislation.

*Q9. Do you agree that the term 'claim' should be used to replace 'reference'?*

*Q10. If you disagree that the term 'claim' should replace 'reference', please state your reasons why and suggest a suitable alternative.*

22. In the ASL rules as amended 'the child or young person' refers to the child (under 16) or young person (aged 16-17) to whom the reference relates. There is no distinction between child and young person in the Equality Act. The term 'person' is therefore proposed for the secondary legislation.

*Q11. Do you agree that the term 'person' should be used to replace 'child or young person'?*

*Q12. If you disagree that the term 'person' should replace 'child or young person', please state your reasons why and suggest a suitable alternative.*

23. Rule 5 of the ASL rules as amended states certain information that must be included in a reference so it can be registered at the ASNTS (paragraph 21, above, defines a reference and explains why the term must be changed in the secondary legislation). This information is in relation to co-ordinated support plans and placing requests, is therefore not appropriate for disability claims cases, and must be amended for the secondary legislation. We have reviewed the rules governing equivalent Tribunals in England and Wales, along with rules relating to the Sheriff Court. The ASNTS needs to be provided with sufficient information to allow the Secretary and Convener to progress the case. As a minimum this includes information: relating to the nature of the person's disability, to confirm that the case would fall within the remit of the ASNTS; details about the alleged discrimination, harassment or victimisation, including key dates and location; the name, address and telephone number of the responsible body; the name, address, telephone number and date of birth of the person allegedly discriminated against, harassed or victimised; and the name, address and telephone number of the claimant (if claimant is not the child). That information is therefore proposed for the secondary legislation, in place of the section relating to the provision of information in Rule 5 of the ASL rules as amended.

*Q13. Do you agree that the information set out above is sufficient to enable the claim to be registered with the ASNTS?*

*Q14. If you disagree with Q13, please state your reasons why and provide details of any further information that you think should be included.*

24. Rule 5 of the ASL rules as amended also states timescales within which a reference must be received by the Tribunal, more specifically that a reference to the ASNTS must be made within two months of the decision that is the subject of the reference. Claims under the Disability Discrimination Act 1995 must be made before the end of the period of six months beginning when the act complained of was committed. The Scottish Ministers may make rules as to the time within which a claim is to be made under paragraph 10(2)(b) of Schedule 17 to the Equality Act. We propose to continue to use the six month period, which is also the period that the Equality Act provides for the English and Welsh Tribunals under Schedule 17(4)(1), but not for the ASNTS.

*Q15. Do you agree that the timescales within which a disability claim must be received by the ASNTS should be consistent with those detailed in the Disability Discrimination Act 1995 i.e. before the end of the period of six months beginning when the act complained of was committed?*

*Q16. If you disagree with Q15, please state your reasons why and suggest alternative timescales.*

25. If more than one reference relates to the same person or is essentially about the same issue, Rule 20 of the ASL rules as amended gives the ASNTS the power to consolidate the hearings of these references. It is proposed that, in the secondary legislation, Rule 20 will stand for claims (again, the reason why the term “reference” must be changed in the secondary legislation is explained in paragraph 21, above).

*Q17. Do you agree that if more than one claim relates to the same person or is essentially about the same issue, the ASNTS should have the power to consolidate the hearings of these claims?*

*Q18. If you disagree with Q17, please state your reasons why.*

26. Extending the jurisdiction of the ASNTS to hear cases under the Equality Act, in addition to the ASL Act 2004 as amended, creates a potential overlap between disability and additional support needs in a proportion of cases brought to the Tribunal. For example, a refusal to admit a disabled pupil with additional support needs to a particular school might give rise to a disability discrimination claim and a reference appealing the placing request decision. It is therefore proposed that Rule 20 is expanded both in the ASL rules as amended and the secondary legislation, to also give the Tribunal the discretion to consolidate the hearing of references and claims relating to the same person or essentially about the same issue. Importantly, the ASNTS would have the power to consolidate hearings not join cases. Cases and legal outcomes would remain separate, but if the same witnesses and evidence are relevant to both, it may be an appropriate use of the Tribunal’s time and resources as well as those attending to allow for consolidated hearings.

*Q19. Do you agree that if references and claims relate to the same person or are essentially about the same issue, the ASNTS should have the power to consolidate the hearings of these references and claims?*

*Q20. If you disagree with Q19, please state your reasons why.*

27. The ASL rules as amended regarding citing witnesses or recovering documents (Rule 22) are suitable for use in claims. The exception is the need to seek the permission of a convener or a Tribunal for more witnesses to be called. Currently there is a limit of two witnesses for ASNTS cases. The ASNTS does, however, have the discretion to allow additional witnesses. A limit of two witnesses is viewed as impractical for disability claims cases because, in previous cases under the Disability Discrimination Act 1995, there have been cases where two witnesses have been needed simply to establish that a child has a disability. In England and Wales **five** witnesses are permitted and more on application, and the Sheriff Court places no limit on the number of witnesses. It is therefore proposed that there is no limit on the number of witnesses for disability claims cases considered by the ASNTS.

*Q21. Do you agree that there should be no limit on the number of witnesses for disability claims cases heard by the ASNTS?*

*Q22. If you disagree with Q21, please state your reasons why and suggest a limit.*

28. Rule 39 in the ASL rules as amended details certain circumstances in which the Tribunal can make an order as to expenses. Under the ASL Act 2004 as amended parents of children (under 16) make a reference on behalf of the child, the child cannot make a reference themselves. In contrast, a child under 16 can bring a disability claim to the Tribunal under the Equality Act. It is therefore proposed that, in the secondary legislation, an amendment is included to reflect that where the claimant is a person (and not the person's parent) there should be no occasion where they have to pay any expenses. It would seem morally unacceptable that they could be held liable for expenses.

*Q 23. Do you agree that where a claimant is a person (and not the person's parent), there should be no occasion where they have to pay any expenses?*

*Q24. If you disagree with Q23, please state your reasons why.*

### **The Sheriff Court Rules**

29. The [Ordinary Cause](#) Rule 44 and the [Summary Cause](#) Rule 36 both state that the Equality and Human Rights Commission (EHRC) must be notified when a disability discrimination case is brought to The Sheriff Court. It is proposed that this requirement is included in the secondary legislation for disability claims cases to permit the EHRC to have an overview of cases.

*Q25. Do you agree that the Equality and Human Rights Commission (EHRC) should be notified when a disability claims case is brought to the ASNTS?*

*Q26. If you disagree with Q25, please state your reasons why.*

30. Both the Ordinary Cause Rules 18(2)(b)(iv) and (v) and the Summary Cause Rule 13.1(3)(e) allow the sheriff to substitute or add a party to an action. To make this change, the sheriff must be requested to do so by a party who is already involved in the action. Rule 13.1(4) of the Summary Cause Rules provides that where it has been requested that a party be substituted or added, the sheriff shall order such service and regulate further procedure as he thinks fit. It is proposed that this right is included in the secondary legislation for disability claims cases.

*Q27. Do you agree that on the request of a party who is already involved in the disability claims case, the ASNTS will have the discretion to substitute or add a party to the action and regulate further procedure as it thinks fit?*

*Q28. If you disagree with Q27, please state your reasons why.*

## **Summary**

31. The power of the ASNTS is currently conferred by The ASL Act 2004 as amended, which states that the Tribunal deals with cases relating to additional support needs, more specifically, issues regarding co-ordinated support plans and placing requests. The Equality Act will extend the jurisdiction of the ASNTS to also hear all disability claims (discrimination, harassment and victimisation) cases for all Scottish schools, mirroring the situation in England and Wales. The policy behind extending the jurisdiction is based on the premise that the Tribunal aims to provide independent and expert decision making, in an impartial, efficient and effective manner, and seeks to be user-friendly through informal and flexible proceedings and to be accessible to all users. The Equality Act gives Scottish Ministers the power to write secondary legislation that makes new rules of practice and procedure for the ASNTS, to enable the Tribunal to hear disability claims cases. The consultation paper has detailed this proposed secondary legislation, seeking your views where appropriate, and the answers you provide will contribute to the development of the rules and regulations of the ASNTS.

# Annex A Respondent Information Form and Consultation Questionnaire



## RESPONDENT INFORMATION FORM

Please Note: that this form **must** be returned with your response to ensure that we handle your response appropriately.

### 1. Name/Organisation

Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

Forename

### 2. Postal Address

Postcode	Phone	Email

### 3. Permissions

I am responding as...

<b>Individual</b>	/	<b>Group/Organisation</b>
<input type="checkbox"/>		<input type="checkbox"/>
<i>Please tick as appropriate</i>		

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate* Yes  No

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

*Or*

Yes, make my response available, but not my name and address

*Or*

Yes, make my response and name available, but not my address

**(c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please tick as appropriate*  Yes  No

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate*  Yes

*Q1. Do you agree that the secondary legislation, which will enable the ASNTS to hear disability claims cases, should be based on the existing ASL rules as amended?*

*Q2. If you disagree with Q1, please state your reasons why.*

*Q3. Do you agree that the secondary legislation should be provided in a separate set of rules to the ASL rules as amended?*

*Q4. If you disagree with Q3, please state your reasons why.*

*Q5. Do you agree that the term 'responsible body' should be used to replace 'the authority'?*

*Q6. If you disagree that the term 'responsible body' should replace 'the authority', please state your reasons why and suggest a suitable alternative.*

*Q7. Do you agree that the term 'claimant' should be used to replace 'appellant'?*

*Q8. If you disagree that the term 'claimant' should replace 'appellant', please state your reasons why and suggest a suitable alternative.*

*Q9. Do you agree that the term 'claim' should be used to replace 'reference'?*

*Q10. If you disagree that the term 'claim' should replace 'reference', please state your reasons why and suggest a suitable alternative.*

*Q11. Do you agree that the term 'person' should be used to replace 'child or young person'?*

*Q12. If you disagree that the term 'person' should replace 'child or young person', please state your reasons why and suggest a suitable alternative.*

*Q13. Do you agree that the information set out above is sufficient to enable the claim to be registered with the ASNTS?*

*Q14. If you disagree with Q13, please state your reasons why and provide details of any further information that you think should be included.*

*Q15. Do you agree that the timescales within which a disability claim must be received by the ASNTS should be consistent with those detailed in the Disability Discrimination Act 1995 i.e. before the end of the period of six months beginning when the act complained of was committed?*

*Q16. If you disagree with Q15, please state your reasons why and suggest alternative timescales.*

*Q17. Do you agree that if more than one claim relates to the same person or is essentially about the same issue, the ASNTS should have the power to consolidate the hearings of these claims?*

*Q18. If you disagree with Q17, please state your reasons why.*

*Q19. Do you agree that if references and claims relate to the same person or are essentially about the same issue, the ASNTS should have the power to consolidate the hearings of these references and claims?*

*Q20. If you disagree with Q19, please state your reasons why.*

*Q21. Do you agree that there should be no limit on the number of witnesses for disability claims cases heard by the ASNTS?*

*Q22. If you disagree with Q21, please state your reasons why and suggest a limit.*

*Q 23. Do you agree that where a claimant is a person (and not the person's parent), there should be no occasion where they have to pay any expenses?*

*Q24. If you disagree with Q23, please state your reasons why.*

*Q25. Do you agree that the Equality and Human Rights Commission (EHRC) should be notified when a disability claims case is brought to the ASNTS?*

*Q26. If you disagree with Q25, please state your reasons why.*

*Q27. Do you agree that on the request of a party who is already involved in the disability claims case, the ASNTS will have the discretion to substitute or add a party to the action and regulate further procedure as it thinks fit?*

*Q28. If you disagree with Q27, please state your reasons why.*

*Q29. Do you have any other comments?*

## **Annex B    The Scottish Government Consultation Process**

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses<sup>1</sup>. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: [Scottish Government consultations](http://www.scotland.gov.uk/consultations) (<http://www.scotland.gov.uk/consultations>)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

**While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation**

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<sup>1</sup> <http://www.scotland.gov.uk/consultations>

**exercises cannot address individual concerns and comments, which should be directed to the relevant public body.**

## **Annex C     Consultation List**

Aberlour Child Care Trust  
Action for Children Scotland  
Action for Sick Children (Scotland)  
Action for Children's Arts  
ADES  
Additional Independent Living in Scotland Core Reference Group Members  
Additional Support Needs Tribunals for Scotland  
Advocacy for Education Scotland  
Administrative Justice & Tribunals Council  
AFASIC Scotland  
Alcohol Focus Scotland  
All Scottish MEPs  
All Scottish Schools  
Allied Health Professionals  
Anti-Bullying Network  
Army Welfare Services  
Article 12 in Scotland  
Association for Children with Heart Disorders  
Association of Scotland's Colleges  
Association of Scottish Colleges  
Barnardo's – West Lothian Family Support Team  
Barnardo's Scotland  
Big Lottery Fund  
BMA Scotland  
British Deaf Association Scotland  
British Museum  
British Red Cross Society  
British Stammering Association  
C.H.I.P Plus  
Capability Scotland  
Care Commission  
Careers Scotland  
Carers National Association (Scotland)  
Central Scotland Racial Equality Council  
Central Scotland Rape Crisis & Sexual Abuse Centre  
Centre for Racial Equality in Scotland  
Centre for Research on Families and relationships  
Chief Executives of Health Boards  
Chief Executives of Local Authorities  
Chief Executives of Special Health Boards  
Child Health Commissioners  
Child Guidance Clinic  
Child Poverty Action Group Scotland  
Childline Scotland  
Children 1st  
Children in Scotland  
Children's Parliament  
CI@n Childlaw

Clerk of the Parliamentary Committee  
CLIC Sargent  
Collusion Theatre Company  
Commission for Racial Equality  
Community Council Liaison Officers  
Community Councils  
Committee Liaison Officers  
Community Link  
Contact a Family Scotland  
COSLA  
Council for Disabled Children  
Crossreach  
Deaf Blind Scotland  
Directors of Education  
Directors of Social Work  
Disability Rights Commission  
Down's Syndrome Scotland  
Drake Music Project  
Dyslexia Scotland  
Dyslexia Scotwest  
Dyspraxia Foundation  
Edinburgh and Lothians Racial Equality Council  
Education Authority Implementation Officers  
Education Equity Group  
Eke-Out Project  
ENABLE – Self Advocacy Groups  
ENGENDER  
Enquire  
Epilepsy Scotland  
Equal Opportunities Commission  
Equality Network  
Equity in Education  
Fairbridge Family Fund  
Fife Racial Equality Council  
Fife Rights Service  
for Scotland's Disabled Children and member organisations  
Further Education Establishments  
Govan Law Centre  
Grampian Racial Equality Council  
Health Implementation officers  
Hearing Impaired Service  
Higher Education Establishments  
Highland Children's forum  
Highland Society for the Blind  
I CAN  
Includem  
Inclusion Scotland  
Inclusive Play  
Independent Special Education Advice (ISEA)  
Kibble Education and Care Centre

KIDS VIP  
Law Society  
Learning and Teaching Scotland  
Learning Disability Alliance of Scotland  
Legal Deposit Library Agency  
Linking Education and Disability  
MELDI  
Mindroom  
National Autistic Society in Scotland  
National Deaf Children's Society  
National Playbus Association  
NCH Action for children Scotland  
NHS Health Scotland  
NHS Helpline Scotland  
NSPCC Centre  
One Parent Families Scotland  
Ourright Scotland  
PAMIS  
Parent Network Scotland  
Parent to Parent Tayside  
Parenting Across Scotland  
Parentline Scotland  
Partners in Advocacy  
Personalised Education Now  
Play Scotland  
Policy and Engagement Officers Network  
Project Ability, Centre for Developmental Arts  
Project Scotland  
RAMTRAQ  
Relationships Scotland  
RNID Scotland  
RoSPA  
Royal College of Paediatrics and Child Health  
Royal College of Speech and Language Therapists  
Royal National Institute for the Blind  
Royal National Institute for Deaf People  
Rudolf Steiner Schools  
San-Jai Chinese Project  
SATF  
Save the Children  
Schoolhouse  
Scotcen  
Scotland's Commissioner for Children and Young People  
Scottish Association for Mental Health  
Scottish Child Law Centre  
Scottish Childminding Association  
Scottish Children's Reporter Administration  
Scottish Civic Forum  
Scottish Consumer Council  
Scottish Council for Independent Schools

Scottish Council for Voluntary Organisations  
Scottish Council on Deafness  
Scottish Disability Equality Forum  
Scottish Independent Advocacy Alliance  
Scottish Independent Special Schools Group  
Scottish Marriage Care/Stepfamily Scotland  
Scottish Mediation Network  
Scottish network for able pupils  
Scottish Parent and Teacher Council  
Scottish Pre-school Play Association  
Scottish Refugee Council  
Scottish School Boards Association  
Scottish Sensory Centre  
Scottish Society for Autism  
Scottish Traveller Education Programme  
SCVO  
Sense Scotland  
SENSE Scotland  
Shaw Trust (Dunfermline)  
SHS Scotland  
Sign Bridge to Literacy  
SKILL Scotland  
Sleep Scotland  
Social Work Implementation Officers  
Special Needs Information Point  
SPICe Library  
Tayside Racial Equality Council  
The British Psychological Society  
The Butterfly Trust  
The Caledonian Award  
The Church of Scotland  
The Educational Institute of Scotland (EIS)  
The Family Fund  
The Fostering Network  
The ME Association  
The Place2Be  
The Princess Royal Trust for Carers  
The Salvation Army  
The Scottish Spina Bifida Association  
Visual Impairment Scotland  
VOCAL  
Voluntary Health Scotland  
West Lothian Youth Action Project  
West of Scotland Racial Equality Council  
YCSA  
Young People Speak Out  
Young Scot  
Youthlink Scotland



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ISBN: 978-0-7559-9444-1 (web only)

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APS Group Scotland  
DPPAS10286 (07/10)

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