



Llywodraeth Cymru
Welsh Government

GUIDANCE

Guidance: The Equality Act 2010 (Disabled School Pupils) (Wales) Regulations 2021

Guidance to support local authorities in their duties as set out in the Equality Act 2010 (Disabled School Pupils) (Wales) Regulations 2021.

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Contents

[Guidance on advice and information](#)

[Guidance on resolving disagreements](#)

[Guidance on case friends](#)

[Guidance on independent advocacy services](#)

Guidance on advice and information

The information and advice about matters relating to disability discrimination in schools must be well publicised, easily accessible and kept up to date by the local authority. This might include publishing information on the local authority's website, providing posters in schools or handing out leaflets during meetings.

The information and advice should be appropriately written to accommodate all users. For example, local authorities should use plain Welsh and plain English, avoid using unnecessary jargon and make alternative versions (for example, easy read/child friendly, Braille or in alternative languages or formats) available for those who require such.

Where a local authority decides to discharge its duties in respect of advice and information about disability discrimination by contracting an external service provider to undertake these responsibilities, it should:

- be transparent about who is providing the services on its behalf
- determine and monitor the overall standard^[1] of the service
- ensure appropriate governance arrangements are in place for the service

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[1] See [The Information & Advice Quality Framework for Wales](#)

Guidance on resolving disagreements

Disagreements that relate to disability discrimination should be raised at the earliest opportunity with a view to finding resolution at the earliest opportunity.

In the first instance, the child (or case friend) should be supported (by teachers, ALNCo, etc.) to raise their concerns at the most suitable local level, whilst respecting the child's communication needs.

The information about arrangements for avoiding and resolving disagreement should include how to access these arrangements, such as providing a name, point of contact, a telephone number, and email address, along with the expected next steps. The information should also explain the difference between resolving disagreements at a local level, and making a formal disability discrimination claim at the Tribunal.

The arrangements should aim to build trust between parties and avoid disagreements by:

- supporting the child (or case friend) and professionals, as appropriate, to have the same information from the same trusted source
- reassuring children that discussions and decision-making will be centred on the needs of the child and they will receive the level of support that they require
- improving communication and building trust between parties to create an environment where the child is treated as a partner in the process and concerns can be addressed through open and constructive dialogue in a manner that is supportive, accessible and suitable for the child
- reassuring parties that those involved in avoidance of disagreements are impartial
- ensuring decisions are explained in a way that is understood by the child
- explaining the decisions that are taken and the reasons for the decisions, and encourage the child to ask questions regarding the decisions, and direct

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to independent advocacy services as required

- providing an early opportunity to discuss decisions, which is key to avoiding disputes and ensuring that issues are presented and dealt with promptly

When a child decides to use the disagreement resolution arrangements, the parties should arrange to meet at a time and place suited to all and an open communication channel should be kept with prompt responses to any requests. This should be arranged at the earliest possible opportunity to enable a prompt resolution.

Guidance on case friends

Case friends allow children who are seeking to bring their own case to have representation and a voice where, for example, their parents may not be able to bring and to pursue dispute resolution or a claim at the Tribunal.

Case friends will listen to the child and work with them to ensure the child's voice is always represented in decisions affecting them.

Case friends differ from independent advocates because they exercise the rights of the child on their behalf, whereas independent advocates offer the child advice, assistance and representation (see below).

If a disagreement does escalate to the Tribunal, case friends can support the child through the claim process and during the hearing itself.

Case friends can only be appointed or removed by order of the Tribunal. The Tribunal may appoint a case friend on their own initiative or on application^[2] of any other person.

^[2] See the [Education Tribunal for Wales' website](#) for more information.

Guidance on independent advocacy services

Whilst children have the right to ask for advocacy, local authorities must take all reasonable steps to actively offer the chance to use an advocate at every appropriate opportunity. The offer of advocacy should include the information that advocates are independent of the local authority and are available free of charge. If the offer is initially declined, it should still be offered at regular intervals or whenever necessary. Staff should be suitably skilled to identify those children who would benefit from having an advocate.

The schools and local authority should take reasonable steps to assist the advocate in carrying out their role, for example, where appropriate, letting other agencies know that an advocate is supporting a child, and if appropriate, providing relevant information. Relevant persons should recognise both the child's right to advocacy, and the advocate's role in supporting and representing the child.

Current practice in Wales is to achieve independence by commissioning advocacy services from an external provider. To preserve independence of advocacy, services providing advocacy should be funded and managed in a way that ensures independence from the commissioning organisation.

Commissioners and service providers should ensure that any issues of challenge and conflict are transparent and robust, and identified and addressed in the service level agreement between the commissioner and service provider.

Where advocacy is provided under other legislation, the local authority should consider using the same advocate to undertake both advocacy roles. This may maximise the opportunities to secure continuity in individuals' advocacy needs, and reduce the need for the individual to have to repeat their experiences and desired outcomes to different advocates. Wherever possible, the parties should seek to agree a single advocate to support the person.

About this document

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