

These notes relate to the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) which received Royal Assent on 7 May 2004

EDUCATION (ADDITIONAL SUPPORT FOR LEARNING) (SCOTLAND) ACT 2004

EXPLANATORY NOTES

THE ACT

Section 19 – Powers of Tribunal in relation to reference

39. This section specifies the powers that a Tribunal has in relation to references. The Tribunal may either confirm the authority's decision that a co-ordinated support plan is needed, or not needed, or overturn the decision and direct the authority to take specific action within a specified time. This also applies where the education authority have decided not to comply with a request to review a co-ordinated support plan earlier than the required 12 month period.
40. Where a reference relates to the education authority's failure to prepare a plan or their failure to conduct or complete a review of the plan within the time required, then the Tribunal can require the authority to rectify this. Where a reference relates to information in a plan, the Tribunal may confirm the information or direct the education authority to amend the information.
41. Where a reference relates to an education authority's refusal of a placing request, as described in section 18, then the Tribunal must consider the statutory grounds of refusal and the appropriateness of the refusal for the individual child or young person. The statutory grounds of refusal are listed in schedule 2. The Tribunal may confirm the decision to refuse the placing request, or they may direct the education authority to amend the co-ordinated support plan and place the child in the school specified in the placing request.
42. In considering a reference relating to obtaining a co-ordinated support plan, if the Tribunal confirms the education authority's decision that the child or young person does not require a plan, then the Tribunal may refer any related appeal on a refused placing request to the education authority's appeal committee (set up under section 28D of the 1980 Act). If the Tribunal does this, then the education authority's appeal committee will consider the appeal on the refused placing request and either confirm or overturn the education authority's decision, as they will do for all other appeals on refused placing requests not connected with a co-ordinated support plan.
43. In determining all its decisions and directions, Tribunals must take account of the code of practice published by the Scottish Ministers (under section 27). The code of practice provides guidance to education authorities and others about how they should exercise their functions under this Act.