

The Rights of Children with ASN: From Paper to Practice

Young person: There is certain rights that some young kids don't have like where they want to be, where they want to go, what they want to do.

Young person: I think children should have the right to have an opinion; they should let them experience things by themselves a lot.

Young person: I think a lot of them are important but the right to education, the right to have a house, clothes, food.

Young person: To speak as long as it's a nice thing, to do kind of what you want to do when you do. Lots of other things as well.

Young person: The right to be in a loving home as there's no point in you having shelter if you're not loved, then you'll kind of turn out messed up, but if you don't have that much shelter but you're loved, you won't turn out messed up.

Jennifer Wilson, Head Teacher Supporting Learners' Service, Fife Council:

The rights for children aged 12 to 15 have been extended so that they have been given the same as many of the rights for parents, carers and young people over the age of 16 under the additional support for learning legislation. These rights include the right to ask the school or local authority to investigate whether or not they require support, they also have the right to have their say in plans around that support, they have the right to have advocacy to support them in terms of gathering their views or sharing their views so their views are taken into account, and also legal representation if required and they also have the right to be actively involved in resolving disagreements around their support.

Bruce Adamson, Children & Young People's Commissioner:

The 2016 legislation is really important because it further enhances the children and young people's ability to access the Additional Support Needs Tribunal. In Scotland, for a very long time, children and young people have been able to instruct solicitors and get involved in legal proceedings if they were competent to do so and solicitors made that assessment but haven't had that same ability in relation to additional support needs tribunals which actually make some very important decisions around children's lives and education. So the extension of the ability for 12 to 15 year olds to directly apply to tribunals is a really important way of further recognising their right to be involved in decisions which affect them and to have their voices heard.

May Dunsmuir, President, Additional Support Needs Tribunal for Scotland:

The important thing first of all to say about the tribunal is that it is independent. It is a judicial body, it has nothing to do with the education authorities, with health, social work or any other

agency so it stands independently in its own right. We are very committed to improving access to justice for children and young people, and it's been my experience through listening to children that access to justice needs to be visible, it is more than just speaking, and what we have done over the past year is we have developed a new website called 'needs to learn' and it's specifically designed for use by 12 to 15 year olds and we have also been developing new hearing facilities in the Glasgow tribunal centre. These hearing facilities have very much been designed by children for children. The tribunal hears two different types of appeals. It hears references in relation to the additional support for learning legislation and it hears claims in connection with the equality act.

Bruce Adamson, Children & Young People's Commissioner:

What human rights are about is a relationship between the state and the individual. So it is the things that the state need to do, those in power need to do to make sure that everyone gets what they need. Parents are the greatest champions for children's rights and what this is about is making sure that children get the things that they are entitled to and that often means the state has to do more to support parents or carers or communities.

Hugh (Young person):

My mum would go like head over heels if she could to help me, she loves me to bits I think so I think she would do anything in her power to help me. So I've got that support down really well.

Sophie Pilgrim, Director, Kindred:

We are an advocacy organisation for parents. The problems that advocacy can address are where there are very difficult decisions or very big decisions. So an obvious example would be if your child is not coping in a mainstream school and you feel that they need a special school, then how do you decide which special school to go to and what are the processes for applying for that special school. So as an advocate we can help a parent with that decision making and then help them step by step towards getting the right school provision for their child.

Luca (Young person):

One day my mum and dad asked me to come down and speak to me and they said we are thinking about sending you to a new school, and the minute I heard that my brain just shut down and my mind was going through millions of different things, and what made things worse was when they said that I would stay there, you know overnight, and I've never been to a school like that before. I felt like I wasn't getting support I needed when I first came here but again as time went on I started to fit in and I started to think this is actually a really good place for me. I'm starting to make it feel like home.

Kieron (Young person):

I came in like, I think it was two visits I came in but for them to actually get me in here they had to drag me in and since then they basically can't get rid of me.

Sandra Mitchell, Resolve ASL Mediation Service:

Independent mediation is a process or an opportunity to assist people who are in dispute to have a productive conversation with a view to try and resolve whatever they are in disagreement about.

Lesley Fairley, Common Ground Mediation:

Well it's an important process because it allows people who are in dispute or conflict to come together and it promotes collaboration really between schools, parents, children and local authorities.

Kenny Graham, Head of Education, Falkland House School:

In the same way that there is great variations in relation to other services that they provide and offer, we find also that there is great discrepancy in the level of advocacy support. As a result of that, we have engaged with partners in advocacy to provide independent advocacy for those young people who are struggling to find that elsewhere, and again it has been an experience that the involvement of that truly independent advocacy service has been very beneficial in securing positive outcomes.

Pauline Cavanagh, Partners in Advocacy:

Children's advocacy is about speaking up for children and young people, making sure their views are heard, and that their rights are respected by others. We attend meetings, we write letters, emails, make telephone calls for young people and ultimately try and help them to speak up for themselves. We feel that it is important as children and young people often aren't heard, aren't listened to, and having independent advocacy to support them to make their views known and respected is vital.

Chloe (Young person):

I've got my own advocate that I speak to and she's helped me with my guardianship and all that kind of stuff, it's good.

Hugh (Young person):

This year I wouldn't have already been here if it wasn't for her because my council weren't willing to fund me at first, but the independent advocate helped to show them what it was that I wanted and needed and in coordination with the school and my mum I got funding to stay here for another year, and it was basically just because of the independent advocate.

Emma Rogan, Children in Scotland:

So one of the things that children have told us in session that we have run in schools is how important it is to trust members of staff and to be able to then go and speak to them if they are having problems at school that they feel that they need extra support with. It's been really nice to create a space within a school environment to talk about those things and the feedback that we've had from children has been really positive that they've really enjoyed having the opportunity to talk about how they feel about things and have their voice heard.

Lucy Johnson, Enquire:

I think it's been really important for them to have their voice listened to as well and have the space and the time to share their opinions, share their ideas and share the direction that they want their education to go in, and that has been a common theme that they want to be listened to and they want to be taken seriously. In addition to the helpline and the trained staff that we have there that are experts in giving advice about all sorts of additional support needs, Enquire and Reach as well have a variety of resources online, so we have 22 different fact sheets about additional support needs and also a wealth of information online that is easily accessible for people who have questions or want to know more about their child's rights to their education.

Nicola Bate, PTC support, Fife council:

So pupils with additional support needs in the school are involved in any plans to do with their education. They are always invited to any meetings and if they are not happy to attend then what we would tend to do is meet with them beforehand, and whether it's through person centred planning or whether it's through a chat, or it's someone that they feel comfortable with to represent them, then that's how we would go about hearing their views.

Rhiannon (Young person):

I get support in most of my classes. They're very good, they're very patient and they like, let me take my time if I can't, like, get the words.

Cameron (Young person):

In the mainstream school, you would just go to a class and talk to them. You wouldn't really talk to them outside of class unless you had some problem, but I'm not the kind of person who goes up to people and asks for things so at this school it's a lot easier yeah.

Hugh (Young person):

We asked for a washing machine so we could do our own washing instead of sending it down and we got that. We asked for a tumble dryer but we didn't get one.

Chloe (Young person):

When I first came to Teens I was a very, very shy person, I had very complex needs and staff at teens have helped me with my anxiety, they've helped me with my anger and to build up my confidence.

Bruce Adamson, Children and Young People's Commissioner:

I think there's a number of changes that we need to make to further respect children's rights to make sure we are respecting a child's right to have a say in decisions that affect them, so any child that's able to demonstrate that they understand the nature of the decision being made about them, should have the ability to access the decision makers and have their voice heard, and they should be supported in doing that as well.

Pauline Cavanagh, Partners in Advocacy:

We feel the way to overcome this is to inform education authorities about the rights of children and young people. Our partners at Children in Scotland who are undertaking the children's views part of the service plan to do that with each education authority across Scotland. So what we would like to see is education authorities understanding that these are rights and not just wishes of children and young people.

Alistair Haldane, Education Manager, Fife council

There's a review of the PSE curriculum across Scotland that is being undertaken and we would see this as part of that ongoing PSE curriculum, particularly in secondary schools. So, we already do a number of inputs on disability, gender, race and gender etc. that young people get to talk about and know about all these different presented characteristics, so the new rights would probably fit quite nicely with that and it will become part of their course during their secondary school. Or it may be some schools choose to have a much more focused approach, so some of them already do children's rights as a specific topic, UNCR rights etc, so again this would sit naturally with that.

May Dunsmuir, President of Additional Support Need tribunal Scotland:

We want to keep learning from children. I made a commitment in 2018 that I would learn directly from children, and what I meant by that was actually one to one experience. I'm very grateful for the learning that I've developed through other agencies but I wanted to actually go out and sit down with children and learn directly from them, so I want to keep doing that. So, overall an absolute commitment to continuing to engage with children and to learn from what they tell us.

Jennifer Wilson, Head Teacher Supporting Learners' Service, Fife Council:

The children and young people should be included in as much of their education aspects as possible and certainly being given the chance to have their voice and have their say, and most importantly with the support as required, that can only be a good thing.

Emma Rogan, Children in Scotland:

I think that we are still in fairly early days with regards to this legislation. The children and young people that we have been out to speak with in schools around Scotland certainly know that they have rights and they know about a lot of their rights that are set out in the UN convention on the rights of the child but maybe don't know as much about the rights in this legislation but that's not a huge surprise as it is still quite early days and there's a lot of work to make sure that we are informing not just children but parents and practitioners as well so that everybody knows about these rights.