



# A Practical Guide to Understanding Your Child's / Young Persons Educational Journey

The publication was written by the Community Support Team at AsIAM.



Coimisiún na hÉireann  
um Chearta an Duine  
agus Comhionannas  
Irish Human Rights and  
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*This document this does not equate to legal advice/guidance, it is an information resource only and at the time of its publication the information contained within was up to date and factual.*

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## Introduction

This resource guide is a basic introduction to your child's right to a primary education. The right to an education has been a long-established right guaranteed by the State since its inception. As parents/guardians/professionals we all know of the importance of having access to an appropriate education. Access to education creates opportunities, imbues growth and personal development. For most parents their interaction with the educational system is generally a seamless 'transaction' when seeking to find a school place for their child/young person. Unfortunately, this interaction between parents/guardians and the State is less seamless or certain if you're the parent/guardian of a child with additional support needs.

In our recent Same Chance report 2023, of the 1600 respondents (23%) of those surveyed stated their child/young person did not have a suitable school place that met their needs. A further (61%) did not find the education system to be inclusive or accessible for Autistic people, based on their experiences. These figures demonstrate some of the difficulties Autistic people and families experience when engaging with the educational system.

This resource was created as a result of the high volume of calls and queries the AslAm Autism Information Line receives from parents and guardians relating to their child/young person's right to an education or difficulties they may have experienced with the educational system. One of the big takeaways we hope parents/guardians get from this resource is that when it comes to education, your child/young person has more rights than you think!

The primary purpose of this resource is to provide parents and guardians with a basic understanding of the constitutional and legal framework of education in Ireland in a way that is accessible and allows you to advocate for your child/young person.

## Education under the Irish Constitution

The Irish Constitution (*Bunreacht na hÉireann*) is the fundamental basic law of Ireland. All law (primary and secondary) emanates from the constitution. All legislation passed by the Oireachtas (Irish Parliament) must be in keeping with the constitution.

The Irish constitution is alive with many fundamental basic human rights, including the right to a primary education. The right to a primary education is the **only** socio-economic right referenced explicitly within the constitution, under **Article 42**. This explicit reference within the constitution has given rise to many cases going before the courts. Whilst this right is explicitly referenced in the constitution, no right is absolute. This means that rights are conditioned or balanced against other competing rights.

The right to education in Ireland is enshrined in Article 42<sup>1</sup> of the constitution, a right which has been elaborated on by the Supreme Court in a number of seminal cases, including *Crowley v Ireland* (1980); *TD v Minister for Education* (2001); and *Sinnott v Minister for Education* (2002).

### Did you know...

The Irish Constitution recognises the family as the primary educator of the child. It guarantees to respect the right and duty of parents to provide for the religious, moral, intellectual, physical, and social education of their children. Parents are free to provide education in their homes or schools

Article 42, which is worth setting out in full, provides:

- The State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical, and social education of their children.
- 2. Parents shall be free to provide this education in their homes or in private schools or in schools recognised or established by the State.
- 3. 1° The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State. 2° The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.
- 4. The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires

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<sup>1</sup> Also, Article 44 and 42A of the Irish Constitution

it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

**The below cases give an insight into how the courts through the years have referenced Article 42 on the right to a primary education.**

#### **Sinnott Case [2001]**

The Sinnott case was a seminal case within Irish legal canons. Although the Sinnott family lost this case upon appeal by the State in the Supreme Court, the judgement outlined that the Irish State is obliged to provide the right to an education up until a child is 18.

#### **DPP v Best [1990]**

This case was important as it set out that the State must ensure that a child receive a "certain minimum education".

There is currently no legal definition of what "minimum standard is".

## *Education Legislation*

The below sections outline the main legislative frameworks of education in Ireland. It is important to note that in some of these legislative provisions particularly in relation to the Education for Persons with Special Education Needs Act 2004 (EPSEN), parts of these Acts are not commenced. Non-commenced effectively means that sections within certain aspects of legislation have no-effect until at such point it is signed into law by the Minister of the day.

### *Key Legislative Frameworks*

- The Education Act 1998 (as amended)
- The Education for Persons with Special Education Needs Act 2004 (EPSEN)
- The Education (Welfare) Act 2000 (as amended)
- The Equal Status Acts 2008-2018

## *The Education Act 1998- What does it mean in practice for your Child/Young Person*

Prior to the passing of the Education Act 1998, there had been no legislative framework for education in Ireland. The 1998 Act was wide-ranging in scope, setting out to provide a legislative framework for education in Ireland for all, including those with a disability. The Act provided for the recognition and funding of schools and their management through Boards of Management, provided for the Inspectorate of schools, for the role and responsibilities of principals and teachers and established the National Council for Curriculum and Assessment (ACCA).

The 1998 Act sets out the right to an education for every person in the State. Section 7 of the Act states that the Minister for Education *"must ensure that there is made available to each person resident in the State...including a person with a disability or who has other special educational needs, support services and a level and quality of education appropriate to meeting the needs and abilities of that person"*.

### **Did You Know...the 1998 Act?<sup>2</sup>**

- Gave statutory rights to parents in relation to their children's education.
- Legally obliges schools to provide for a diversity of needs, values, and traditions.
- Provide that schools must use their resources to ensure that the educational needs of students with additional needs are identified and provided for.
- Schools' boards of management must use the resources provided by the State to make reasonable provision and accommodation for students with additional needs.
- Required boards of management to publish the school's policy concerning admission of and participation by students with additional needs.
- Schools must also prepare and regularly review and update a school plan outlining how the school proposes to achieve equality of access and participation in the school for students with additional needs.
- Since July 2022 the Act gives authority to the Child and Family Agency and the National Council for Special Education (NCSE) to designate a school place for a child/young person with no school place under section 67 of the Act.

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<sup>2</sup> [Legislation and policy | European Agency for Special Needs and Inclusive Education \(european-agency.org\)](#)

## *The Education for Persons with Special Education Needs Act 2004 (EPSEN)- What does it mean in Practice for my Child/Young Person*

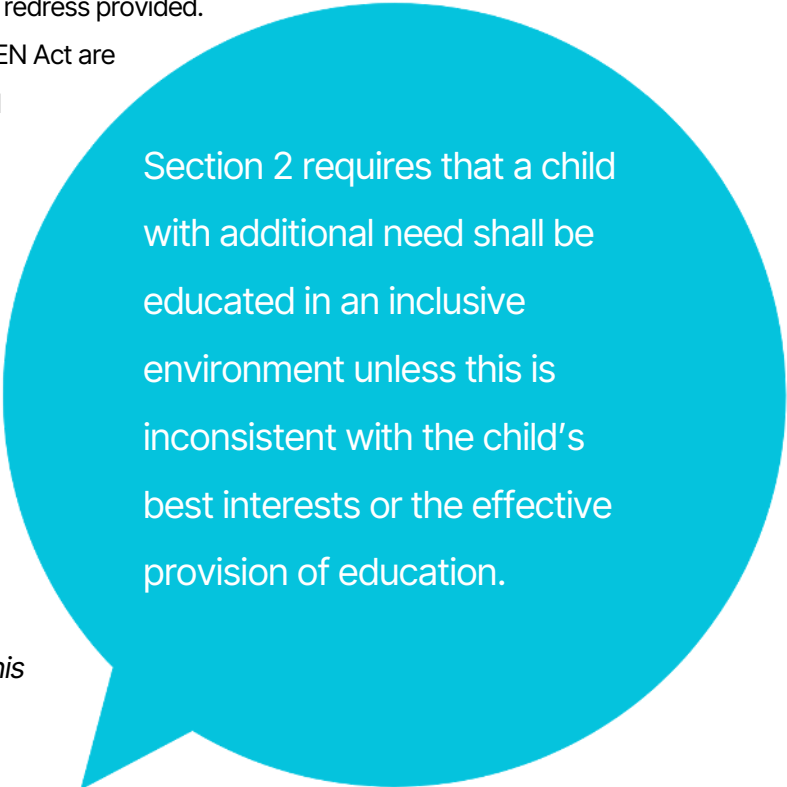
The Education for Persons with Special Education Needs Act 2004 (hereafter EPSEN) is almost 20 years old. It was considered at the time to be a revolutionary piece of legislation for special education provision in Ireland. EPSEN sets out a comprehensive statutory framework for the provision of education for those with additional educational needs and if fully implemented could potentially provide for the inclusive education system we strive for.

### **Did You Know...the EPSEN Act?**

- Promotes inclusive education for children and young people with additional needs, (Section 2).
- Established the National Council for Special Education (NCSE).
- Outlines the duties and responsibilities of schools' boards of management and principal teachers regarding education provision for students with additional needs.
- Over 18 sections of EPSEN remain non-commenced (not operational in law), these include Sections. 3,4,5,6,7,8,9,11,12,13,14(1)(b) and 14(1)(d), 15, 16, 17, 18, 38 and 39.

### **A failure to commence means:**

- No right to litigate for the provisions under the Act, such as a right to an Individual Education Plan (IEP).
- Services may be withdrawn, and no redress provided.
- Provision of services under the EPSEN Act are currently working from a "grace and favour" system.



Section 2 requires that a child with additional need shall be educated in an inclusive environment unless this is inconsistent with the child's best interests or the effective provision of education.

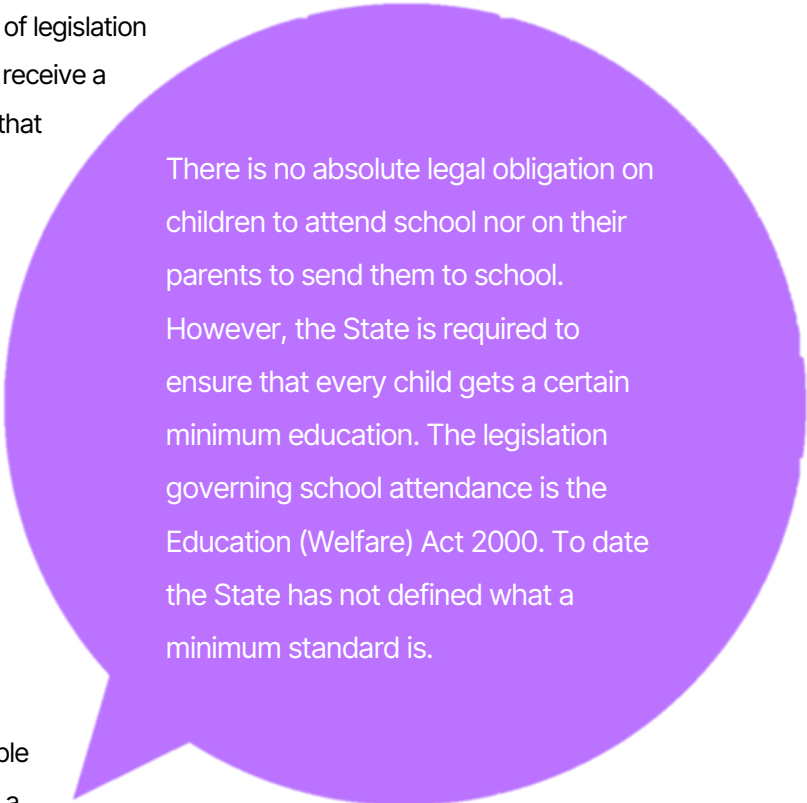
*Note: At the time of writing, there is currently a review of the EPSEN Act, please keep an eye out for updates on this review\*\**



## *The Education (Welfare) Act 2000 (as amended) - What does it mean in Practice for my Child/Young Person*

The Education (Welfare) Act (2000) was a piece of legislation introduced to ensure children and young people receive a minimum standard of education. The Act states that the Educational Welfare Services of Tusla (the Child and Family Agency) – must '*ensure that each child attends a recognised school or otherwise receives a certain minimum education*'. It must also '*promote and foster, in recognised schools, an environment that encourages students to attend schools and participate fully in the life of the school*'. While this Act does not specifically refer to special education, its provisions apply to all school-age going children, including those with additional needs.

The Child and Family Agency (Tusla) is responsible for ensuring that each child aged 6 to 16 attends a recognised school or receives a certain minimum education. Education Welfare Officers (EWO) were established under the Act; the EWO role is to ensure regular school attendance and retention. There will be more on the role of the EWO in the section covering "Key Stakeholders in Education".



There is no absolute legal obligation on children to attend school nor on their parents to send them to school. However, the State is required to ensure that every child gets a certain minimum education. The legislation governing school attendance is the Education (Welfare) Act 2000. To date the State has not defined what a minimum standard is.

### **Did you know...under the Act:**

- The school leaving age is 16 years.
- Schools are obliged to keep a register of a student's attendance.
- Schools must also maintain records for all students and inform the Child and Family Agency's educational welfare services, if, in his/her view a student has attendance problems.
- A reduced timetable is a form of school exclusion, and without the permission of a parent/guardian is a *de facto* suspension. More information is available on this in the section on topics of importance.

## *The Equal Status Acts (2000-2018) - What does it mean in Practice for my Child/Young Person*

The Equal Status Acts (2000-2018) are relevant to the delivery of educational provision for children and young people in Ireland. The Acts prohibit discrimination in the provision of goods and services, accommodation, and education. In recent years this piece of legislation has been used to uphold the rights of children and young people when it comes to accessing their right to an education. One of the most recent cases on this was involving a young child with Down Syndrome who had been discriminated against by a primary school on the grounds of disability under the Equal Status Act<sup>3</sup>

The Equal Status Acts specify four areas in which an education institution must not discriminate<sup>4</sup>:

- the admission of a student, including the terms or conditions of the admission of a student,
- the access of a student to a course, facility or benefit provided by the school,
- any other term or condition of participation in the school and
- the expulsion of a student or any other sanction.

### **The aim of the Acts are to:**

1. promote equality of opportunity,
2. prohibit discrimination on nine specific grounds,
3. prohibit harassment on the discriminatory grounds and sexual harassment,
4. require reasonable accommodation of people with disabilities and
5. allow for positive action

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<sup>3</sup> <https://downsyndrome.ie/statement-on-the-findings-from-the-workplace-relations-commission-adjudication/>

<sup>4</sup> Education - IHREC - Irish Human Rights and Equality Commission

## Important:

The Equal Status Acts outlines discrimination on the ground of a disability .

Section 4.—(1) of the Acts state: For the purposes of this Act discrimination includes a refusal or failure by the provider of a service to do all that is reasonable to accommodate the needs of a person with a disability by providing special treatment or facilities, if without such special treatment or facilities it would be impossible or unduly difficult for the person to avail himself or herself of the service.

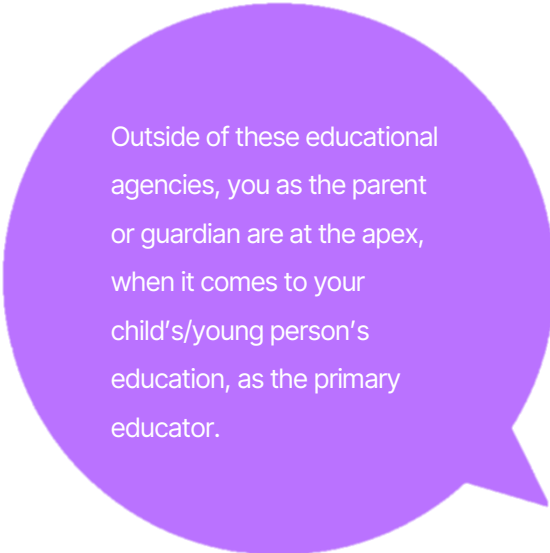
A refusal or failure to provide the special treatment or facilities to which subsection (1) refers shall not be deemed reasonable unless such provision would give rise to a cost, other than a nominal cost, to the provider of the service in question.

What does this mean in practice:

A school must provide reasonable accommodation to meet the needs of a person with a disability if it would be impossible or unduly difficult for that person to participate in school without the special treatment, facilities, or adjustments. However, there is no obligation to provide special treatment, facilities or adjustments if they give rise to anything more than a 'nominal cost'. The meaning of 'nominal cost' will depend on the circumstances such as the size of and resources available to the organisation. A large and well-resourced organisation is more likely to be able to afford a higher level of cost in making reasonable accommodation than a small one is. As most schools are funded by the State, this would suggest the 'nominal cost' exemption may not be very significant in practice. If the State provides grants or other resources for assisting in providing special treatment or facilities, there may be an onus on the school to avail of these .

## Key Agency Stakeholder

As your child/young person starts of on their education journey you will encounter several key agencies of the State. The role of these agencies is to support your child/young person as the interact with the education system. You may not engage with all of these agencies, but it is important to know they do exist and are their support you and your child in varies capacities and at certain times.



Outside of these educational agencies, you as the parent or guardian are at the apex, when it comes to your child's/young person's education, as the primary educator.

These partners may include the following:

- Board of Management (BOM)
- Special Education Needs Officers (SENO),
- Education and Welfare Officers (EWO's),
- National Educational Psychological Services (NEPS)
- National Council for Special Education (NCSE).

### *Board of Management*

The Board of Management's main function is to manage the school on behalf of the patron and for the benefit of the students and to provide an appropriate education for each student at the school. The Board is accountable to the patron and the Minister for Education. If you're unhappy with a decision made by your child's/young person's school, parents and guardians you can make a complaint to the school's Board of Management. More information is available on this in the section on topics of importance.

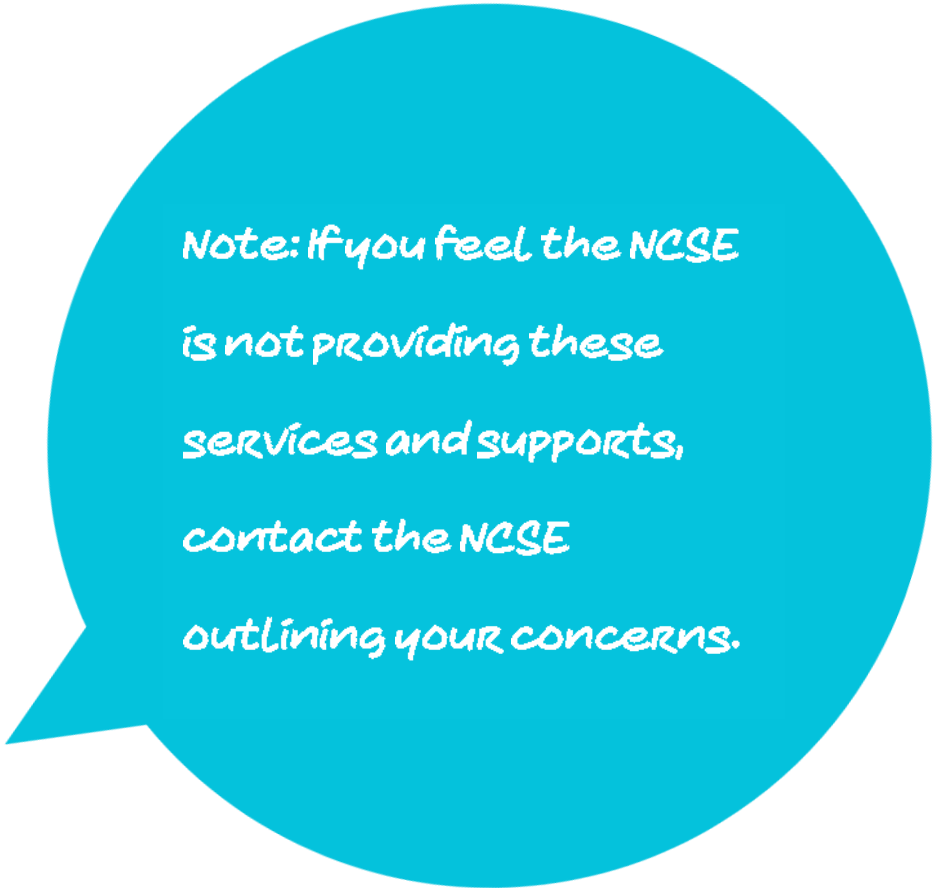
### *NCSE*

The National Council for Special Education (NCSE) was set up under the Education for Persons with Special Education Needs Act in 2004 with the purpose of improving the delivery of education services to persons with additional educational needs. The delivery of this service is carried out and delivered through the national network of Special Educational Needs Organisers (SENO) who should interact with parents and schools and liaise with the HSE in providing resources to support children with additional educational needs.

**The NCSE's functions, as set out in the EPSEN Act (2004), include the following:**

- to disseminate to schools, parents and others appropriate information relating to best practice, nationally and internationally, concerning the education of students with additional needs.

- in consultation with schools and the Health Service Executive (HSE), to plan and co-ordinate the provision of education and support services for children with additional needs.
- in consultation with schools, to plan for the integration of education for learners with additional educational needs with the general school population.
- to make information regarding parents' and children's entitlements available to the parents of children/young people with additional needs.
- to ensure that the progress of children/young people with additional educational needs is monitored and reviewed at regular intervals.
- to assess and review the resources required in relation to educational provision for children with additional educational needs.
- to ensure that a continuum of education provision is available as required in relation to each category of disability.
- to advise the minister on any matter relating to the education of children and others with disabilities.
- to conduct, commission and publish research on matters relevant to the functions of the Council.



*Note: If you feel the NCSE  
is not providing these  
services and supports,  
contact the NCSE  
outlining your concerns.*

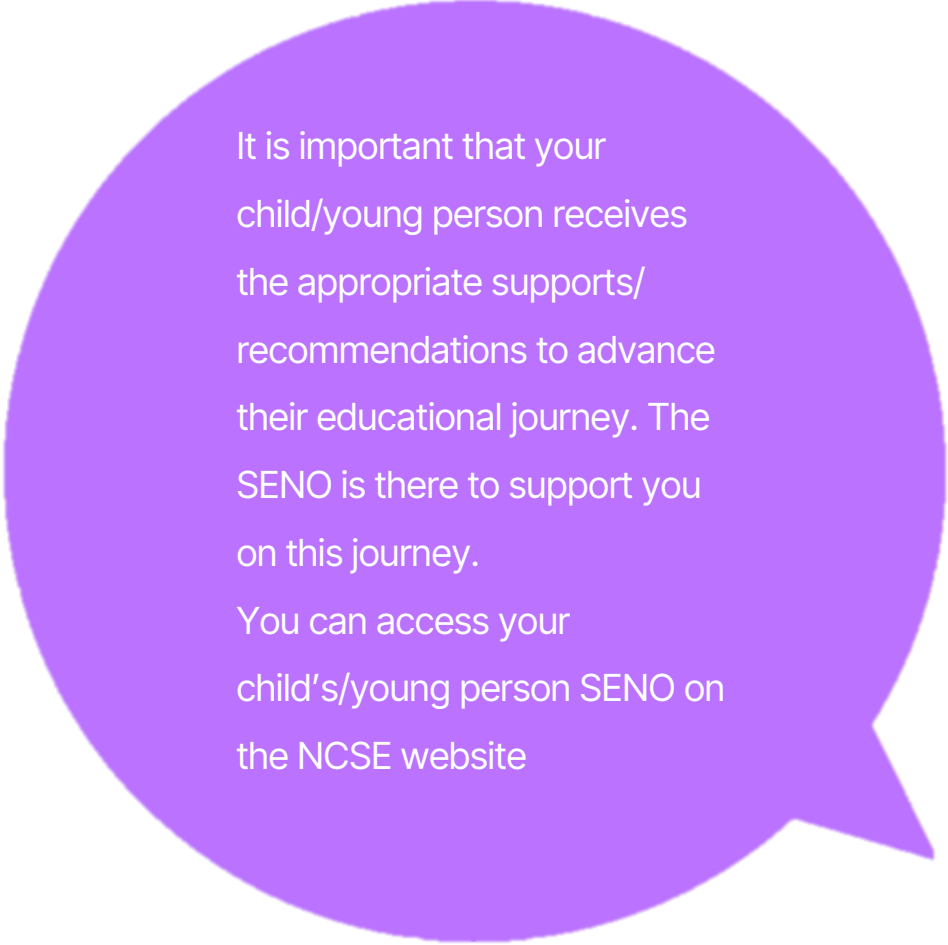
## *Special Education Needs Officers (SENO)*

SENOs are appointed by the NCSE to provide a direct local service to the parents of children with additional educational needs and to schools within geographical areas. This involves identifying the needs of children and deciding on the level of resources schools require to provide them with an appropriate education service.

A SENO deals with applications for additional teaching and Special Needs Assistants (SNA's) support for children with additional educational needs from all schools. The SENO also assists with applications for transport and Assistive Technology.

A SENO can advise schools and parents on the facilities, services, and resources available to assist children with Special Educational Needs.

Section 26 of the EPSEN Act outlines the role of the SENO. It also outlines the duty on schools and Board of Management to co-operate with the SENO's in carrying out their duties.



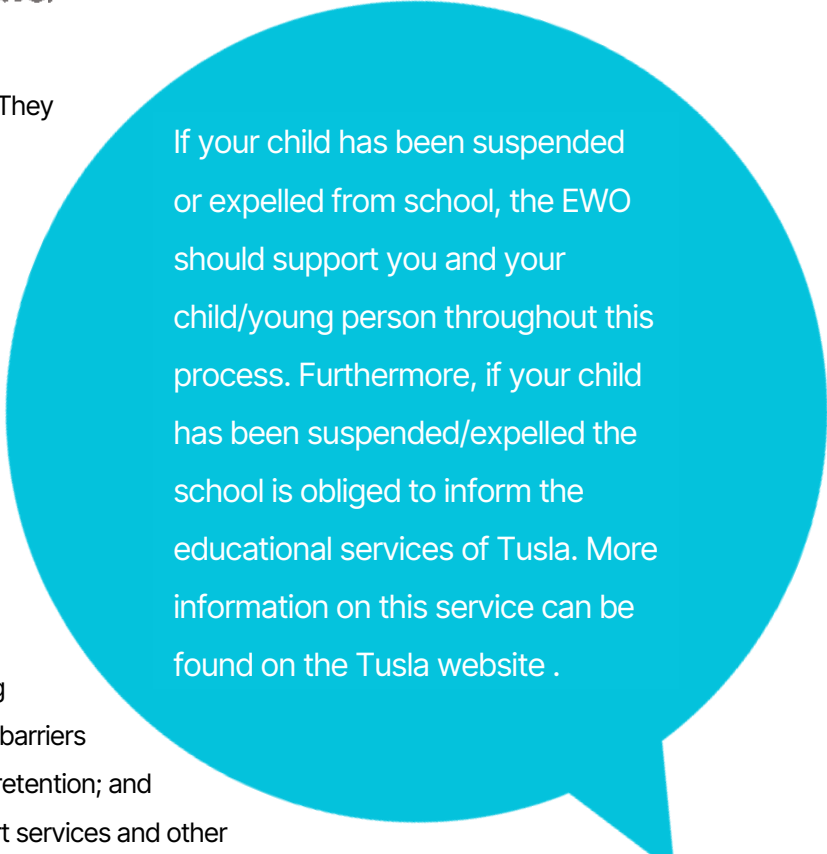
It is important that your child/young person receives the appropriate supports/ recommendations to advance their educational journey. The SENO is there to support you on this journey.

You can access your child's/young person SENO on the NCSE website

## *Educational Welfare Officers (EWO)*

The primary focus of EWO's is concerning a child's/young person's attendance at school. They work under the Educational Welfare Services which form part of the Tusla Education Support Service. These services operate under the previously referenced Education (Welfare) Act 2000.

The aims and objectives of this statutory service is to ensure that every child either attends school regularly or otherwise receives a minimum education; to ensure and secure every child's/young person's entitlement to education. Educational Welfare Officers work with families and children/young people in a person-centred way to overcome barriers to their school attendance, participation, and retention; and work closely with schools, educational support services and other agencies to support school attendance and resolve attendance problems for the benefit of children and families<sup>5</sup>.



If your child has been suspended or expelled from school, the EWO should support you and your child/young person throughout this process. Furthermore, if your child has been suspended/expelled the school is obliged to inform the educational services of Tusla. More information on this service can be found on the Tusla website .

## *National Educational Psychological Services (NEPS)*

The National Educational Psychological Service (NEPS) is a service provided by the Department of Education. They provide psychologists to work with Primary and Post Primary schools and in other related education centres. NEPS supports are received through a request from the school or teaching staff. The school will then discuss the case with their assigned NEPS psychologist and decide if your case requires their help. Once NEPS has agreed to work on your child's case they will meet with you and your child and take a problem-solving approach to addressing your case. This will start by finding out what the current concern is, then moving on to why it is happening. After this, an action plan will be agreed and finally, there will be a meeting to see if the plan worked. If not, the process begins again.

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<sup>5</sup> [EWS - Educational Welfare Services Tusla - Child and Family Agency](#)


## Key Topic of Educational Importance

### School Integration

An integrated school experience is a right your child/young person is entitled to. A right to an inclusive education is laid down in both domestic legislation and international treaties. Section 2 of the EPSEN Act states:

S.2 A child with special educational needs shall be educated in an inclusive environment with children who do not have such needs unless the nature or degree of those needs of the child is such that to do so would be inconsistent with—

- the best interests of the child as determined in accordance with any assessment carried out under this Act, or
- the effective provision of education for children with whom the child is to be educated.



Integration within the school is fundamental to an inclusive education, as reflected in the UNCRPD.

Given the diverse support needs of the Autistic community, Autistic children may attend special schools or Autism classes within mainstream schools. It is important to note that all children availing of a school place in an Autism class are entitled to integrate with their peers in mainstream, regardless of their needs. This means they will have access to a seat in the autism class and a seat in the mainstream class every day.

In 2018, the Irish government ratified the United Nations Convention on the Rights of a Person with a Disability (UNCRPD). Article 24<sup>6</sup> of this convention states that: States Parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

- The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
- The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
- Enabling persons with disabilities to participate effectively in a free society.
- The above legislative provisions recognise the importance of integration as a key cornerstone to ensuring a fully inclusive education system exists.

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<sup>6</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-24-education.html#:~:text=States%20Parties%20shall%20ensure%20that%20persons%20with%20disabilities%20are%20able,an%20equal%20basis%20with%20others.>



*Did you know... a reduced timetable should never be used as a form of punishment towards a student and should never be used as a result of a school not having appropriate resources.*

## Reduced Timetables

A reduced timetable is a method whereby the school will limit the amount of time your child/young person spends in school. In 2021 the Department of Education introduced new guidelines called "The Use of Reduced School days" which provides clear guidance on when a reduced timetable should be used<sup>7</sup>.

A reduced timetable may also be called, reduced school day, reduced hours, shortened hours, or a shorter week.

For a school to implement a reduced timetable they must have received prior written consent from a parent or guardian of the child/young person. If the child is over 18, they can consent to it themselves. Where possible the school should also try to get the view of your child/young person on a reduced timetable and consider this view before coming to a decision on whether to suggest one.

### Key message:

- A reduced timetable should only last for as long as is needed to help the student return to school full time. It should be timebound.
- A reduced timetable can only be used as a short-term measure, with 6 weeks being the maximum length. This can be extended with renewed consent.
- Steps the school must take before placing a student on a reduced timetable:
- Must have engaged with support services including the SENO (Special Educational Needs Organiser) if the child has additional educational needs.
- Must have developed and put in place a support plan for a suitable amount of time.
- Must have clear reasons for considering a reduced timetable whilst also keeping the students' best interests in mind, and these reasons must be based on and supported by evidence.
- Must have written consent from a parent or guardian or student if over 18. If this consent is withdrawn at any time the school must keep a record of this.
- Must inform TESS (Tusla Education Support Services) no later than the first day of the reduced timetable.

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<sup>7</sup> <https://www.gov.ie/en/circular/f49bd-0047-2021/>

- Must create a plan and agree a plan for the re-introduction of a full school day for your child/young person.
- The plan must be discussed and agreed with the student's parent/guardian. The student's key parental/guardian contact must be listed in the plan.
- The parent/guardian (or student if over 18) must receive a copy of the agreed plan which is to be signed by them and the school principal.
- Once all these steps are completed the student is then placed on a reduced timetable.
- What must the reduced timetable plan contain?
- A start and end date, along with a date where the plan will be reviewed.
- Any educational supports and interventions the student will be receiving during the reduced timetable.
- The actions needed to support the students return to school full time.
- It may also include a work plan for the student to complete when not in school.

### **Can a school extend a reduced timetable?**

It can only be extended in exceptional circumstances and with further written consent from the parent/guardian (or student if over 18). The school must also inform TESS about an extension no later than the first day of the renewal of the plan. A school cannot carry a reduced timetable for a student from one school year to the next.

### **Where can I go for support and guidance on the reduced timetable process?**

The Tusla Education Support Service (TESS) can provide you with support and information if your child is placed or about to be placed on a reduced timetable. You can contact TESS through your local Educational Welfare Officer. The school should tell you that TESS can give assistance and advice if needed.

### **Can I withdraw my consent if I've changed my mind?**

Yes, you can withdraw your consent at any time. The school must let you know that you have a right to withdraw your consent.

What happens to my child's education during the appeals procedure?

You can ask the school to delay introducing the reduced timetable until you have appealed it.

### **How to appeal a reduced timetable:**

Ask for the decision in writing – Ask the principal to provide a formal written decision relating to the reduced timetable. You can ask the principal if the decision had Board Approval. You can also ask them to delay the reduced timetable until you have appealed the decision with the Board of Management.

## *Appeal to the schools Board of Management.*

Appeal to the Department – If the Board of Management uphold the decision, you can appeal this decision to the Department of Education with a Section 29 Appeal providing your child/young person was on a reduced timetable for at least 20 school days.

### How to appeal

You must appeal within 42 calendar days from the date of the decision of the Board of Management. You must fill out the Section 29 Appeal Form. You must also submit the decision of the Board and any supporting documents. You can send it two ways, [section29@education.gov.ie](mailto:section29@education.gov.ie) or to Section 29 Appeals Administration Unit, Department of Education, Friar's Mill Road, Mullingar, Co. Westmeath.

Information from the Appeals Unit – When the unit receives your appeal, they will let you know they have received it. They will also let the Board of Management of the school know you have made the appeal.

Appeals hearing within 21 days – Where possible, appeals hearings will be held within 21 calendar days from the date that the Appeals Unit receives your appeal application.

Receive documents before the appeal – You will get a copy of any documents the Board of Management sends to the Appeals Committee at least three calendar days before the hearing.

Appeals hearing takes place and preliminary decision made – The Appeals Committee hears everyone's arguments and then looks at all the evidence. It will make a preliminary decision and outline the reasons for its decisions.

Observations can be made – You can make an observation to the Committee on the preliminary decision, this must be in writing and within 7 calendar days of the preliminary decision. The Committee will consider everyone's observations and make a final decision.

Once the final decision has been made the Appeals Committee will send its decision to the Minister for Education who then send the decision to you and all other parties.

For more information on this please see here <https://www.childrensrights.ie/resources/know-your-rights-education-guide-reduced>

## Restraint and Seclusion

Currently in Ireland there is no legislation or guidelines on restraint and seclusion in Irish schools. Seclusion and restraint are both examples of restrictive practices, however at present there is no statutory definition of restrictive practices. Whilst no guidelines or legislation exist pertaining to this area, there are international and domestic protections to bodily integrity. Article 28 of the United Nations Convention of the Rights of the Child "*States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention*". The Department of Education is due to release guidelines on this in the near future (at the time of writing). For the latest updates on restraint and seclusion in Irish school's please go to the Department of Education's website.

## Making a Complaint to your Child's/Young Person's School

The first thing to note here is, if you're dissatisfied about something that is impacting on your child's/young person's school experience, you can make a complaint. All schools have their own internal complaints policy procedures.

Complaints come in various guises and can pertain to your child/young person being excluded from school, not having access to appropriate supports, issues with school staff, suspensions, incidents of bullying *inter alia*. As the Department of Education has no role in the day to day running of a school, a complaint should be made to the school itself.

In the first instance you should bring your issue/concern to your child's/young person's teacher. If your issue is with your child's/young person's teacher, you then should bring this issue directly to the principal of the school. If upon bringing this issue to the school principal and you're dissatisfied with the outcome of this, you can write to the Chairperson of the Board of Management. If you're dissatisfied with the outcome of the Board of Management decision or response on your issue, you can then bring this issue to the Ombudsman for Children under section 9 of the Office of the Ombudsman for Children Act 2002 or in some cases a complaint can be brought to the Teaching Council.

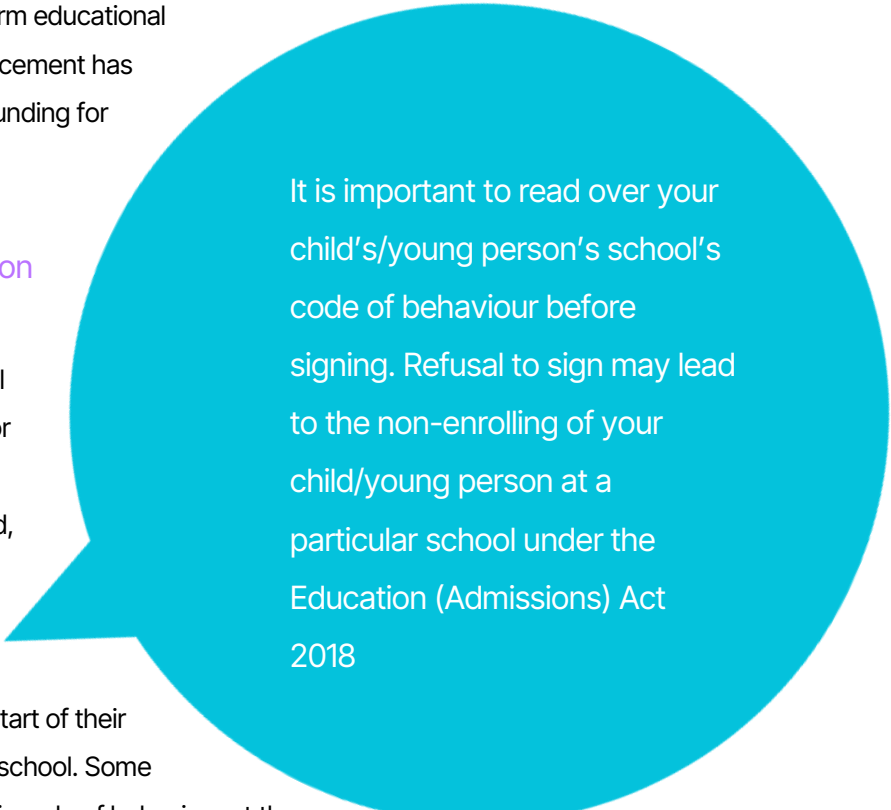
If in the first instance the complaint/issue is with the principal of the school, you can write to the Chairperson of the Board of Management with your concerns/issues. Likewise, if you're unhappy with the decision/outcome, you can make a complaint with Ombudsman for Children or in some cases the Teaching Council.

## Home Tuition

Home Tuition can be used in the absence of an appropriate school placement for your child/young person. It provides funding for the home schooling of your child/young person for a set number of hours each week. Typically, when funding is granted for this educational provision, parents/guardians must source their own tutor. Home Tuition should only be provided as a short-term measure whilst an appropriate school placement is sourced for your child/young person. It is important to note that Home Tuition should never be seen as a long-term educational provision. Once an appropriate school placement has been found for your child/young person funding for Home Tuition will cease.

## Suspensions, Expulsions and Section 29's


By law your child's/young person's school must have a code of behaviour in place for your child/young person to follow. If your child/young person is suspended/expelled, this sanction must happen within the parameters of the school's code of behaviour which parents sign up to on behalf of their child/young person at the start of their school journey at primary and secondary school. Some schools may request new approval of their code of behaviour at the commencement of each academic year.



It is important to read over your child's/young person's school's code of behaviour before signing. Refusal to sign may lead to the non-enrolling of your child/young person at a particular school under the Education (Admissions) Act 2018

## Suspensions

The process for suspension should be set out in the school's code of behaviour. If your child/young person is suspended by their school, the school must notify you as a parents/guardian. The decision to suspend must also be reasonable and reflect the seriousness of the situation. We would recommend that you request the decision to suspend be provided to you as parents/guardians in writing.



An appeal may not be made if the period or periods of suspension are less than 20 days in a school year.

Section 29 of the Education Act, 1998 provides for an appeal where a board of management, or a person acting on behalf of the board of management (normally the school Principal) suspends a student for a period or periods totalling not less than 20 days in a school year.

An appeal may not be made if the period or periods of suspension are less than 20 days in a school year.

To make an appeal you must complete a Section 29 Appeal Form for suspension exceeding 20 school days.

## Expulsions

Expulsion is when a school's Board of Management (BOM) takes legal steps to remove your child/young person from their school "in cases of repeated unacceptable behaviour, or a serious one-off incident<sup>8</sup>".

An expulsion is the highest form of punishment a school can impose on your child/young person. Your child's/young person's school will set out the procedures upon which an expulsion may be imposed (this will be set out the school's code of behaviour). By law, schools must have procedures in place which outline the steps they must take before they can expel your child/young person. In imposing an expulsion on your child/young person the school must follow its own rules and procedures in administering an expulsion.

### **If your child/young person is expelled there are seven possible steps in which this will take place:**

- You are invited to a BOM meeting to discuss the principal's recommendation to consider expelling your child/young person.
- You are notified and invited to a Section 24 meeting to discuss your child/young person's ongoing education.
- A section 24 meeting is held under the provisions of the Education (Welfare Act) 2000. This a meeting to discuss how to continue the education of your child/young person and allow you to introduce new information which might support the case for your child/young person to not be expelled.
- The BOM meets to confirm or overturn decision. Any new information which was introduced at the section 24 meeting, may be considered here.
- If your child/young person is expelled, you can appeal this decision. The Educational Welfare Officer helps you consider your options if your child is expelled – home tuition, apply to enrol in another school, appeal the expulsion.
- Appealing an expulsion is done through a process known as a section 29 under the Education Act.

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<sup>8</sup> <https://www.tusla.ie/uploads/content/TESS-Expulsion-from-school-info.pdf>

- For the appeal you will be asked to explain the grounds (reasons) for the appeal and include a copy of the letter from the BOM explaining the expulsion.
- You must fill out and send a Section 29 Appeals Application Form to the Department's Secretary General<sup>9</sup>.
- The hearing takes place. At the hearing you can present your case to the appeals committee which is made up of three people. The EWO may be present. A representative of the school will also be there to ask and answer questions. When the appeal committee has decided on the outcome, they will let you know. This is called a preliminary decision.
- A section 29 can be subject to a review at the request of a school or by you as the parent/guardian, if you, or the school feel the section 29 committee erred in their decision-making process. This takes the form of a Judicial Review. Judicial Review is a mechanism by which an application can be made to the High Court to challenge the decision-making processes of administrative bodies. It is important to note that the Judicial Review is not an appeal.

*Section 29 can also be used whereby your child or young person has been refused a school placement or has been put on a reduced timetable without your consent.*

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<sup>9</sup> <https://www.gov.ie/en/publication/19941-appeals-against-expulsion-or-suspension-for-a-period-or-periods-totaling-not-less-than-20-school-days-in-a-school-year/>

## Reasonable Accommodations

If your child/young person has additional needs, he or she if required must be provided with 'reasonable accommodation' to help them have an education on an equal basis with others. This can include adaptations or services which will help overcome discrimination in getting an education. Deciding whether an accommodation is reasonable involves an assessment of whether it is relevant and effective, in relation to how much it will cost<sup>10</sup>.

Accommodations might include, for example:

- Changing the location of a class
- Providing different forms of in-class communication
- Enlarging print, providing materials and/or subjects in sign, or in an alternative format
- Providing students with a note-taker, or a language interpreter
- Allowing students to use assistive technology in learning and assessment situations
- Allowing a student more time
- Reducing levels of background noise and ensuring sensitivity to sensory overload
- Providing alternative evaluation methods or replacing an element of curriculum by an alternative element

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<sup>10</sup> [https://www.unicef.org/eca/sites/unicef.org/eca/files/IE\\_summary\\_accessible\\_220917\\_0.pdf](https://www.unicef.org/eca/sites/unicef.org/eca/files/IE_summary_accessible_220917_0.pdf)



Article 24 (5) of the UNCRPD states that “States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities”.

### **Accommodations might include, for example:**

- Changing the location of a class
- Providing different forms of in-class communication
- Enlarging print, providing materials and/or subjects in sign, or in an alternative format
- Providing students with a note-taker, or a language interpreter
- Allowing students to use assistive technology in learning and assessment situations
- Allowing a student more time
- Reducing levels of background noise and ensuring sensitivity to sensory overload
- Providing alternative evaluation methods or replacing an element of curriculum by an alternative element

Please refer to the section on the Equal Status Acts (2000-2018) within this resource guide for further information.

## How can AsIAM support my child?

AsIAM is Ireland's national autism charity. Our vision is to create a more inclusive Ireland for autistic people. We run a range of programmes which aim to support the autistic community and families. We provide support to our community through our wide-ranging programmes in our community support, adult support and training teams.

Our purpose is to advocate for an inclusive society for autistic people that is accessible, accepting and affirming. We work to support the autistic community and our families to fully engage in Irish life and build the capacity of society to facilitate true inclusion.

### Community / Family support

We provide information and guidance to families and individuals through our full-time signposting service available through our Autism Information Line on 0818 234 234 or at [support@asiam.ie](mailto:support@asiam.ie), we also have an Instant Messaging service available on our website. Through our Family Support Programme, we offer a range of events/activity for autistic children under 18 and their families. The Family Support Programme offers a range of online and in person opportunities to connect with AsIAM, and each other to build the capacity of families to have their needs acknowledged and supported and to connect autistic children and families through special interests. Through the work of our Policy Team, we lobby government and public representatives to ensure better services for autistic people and families.

### Education & Training

We believe for society to be inclusive of autistic people, it is important and necessary to mainstream awareness and knowledge about the condition. AsIAM works in partnership with businesses within the private and public sector to enhance autism understanding within the workplace and in schools to ensure a better understanding of the condition.

### Adult support

We offer Adult Support and Employment Programmes to provide much needed support for autistic adults through our different programs, all of which are available to view on our website.

### Autism ID Cards

AsIAM has provided many children and adults with an Autism ID card. You can find more information about the Autism ID card on our website. Please visit our website ([AsIAM.ie](http://AsIAM.ie)) to find out more about the work we do.



**Coimisiún na hÉireann  
um Chearta an Duine  
agus Comhionannas**  
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