

**Are you in the
right place?**

This guide is to help children who want to make a disability discrimination claim to the Additional Support Needs part of the Tribunal - we call this “the Tribunal” in this guide.

Children’s Guide - How to Make a Claim



Hello!



Welcome to the Additional Support Needs part of the Tribunal. We call this “the Tribunal” in this guide. You can check our “needs to learn” website for other help.



You are not on your own. The Tribunal’s staff are here to help you.



If you think you have not been treated fairly at school then you can make a **claim**. To do this, fill in the “Make a Claim” form which is available on our website [at this link](#). This guide will help you to fill in the form.

If you want to change the support you get at school then you can make a **reference**. To do this, you will need to fill in the “Make a Reference” form which is available on our [website here](#).



There is a separate guide to help you fill in a reference form called **Children’s Guide - How to Make a Reference**.

To help you



In this guide there are some words which you might not know. If the word is in **blue** then you will find the meaning of the word at the back of this guide under “Word meanings”.

Who can help?



You are not on your own. If you decide you want to make a claim, you can get help from different people or groups.

The **Tribunal** is a legal body, independent from your school, social work or the NHS. The staff at the **Tribunal** can help you. You can write to us, or call or email us.



Telephone: 0141 302 5860

Additional Support Needs, Health and Education Chamber

First-tier Tribunal for Scotland

4th Floor, 1 Atlantic Quay

45 Robertson Street, Glasgow, G2 8JB

email: ASNTribunal@scotcourtribunals.gov.uk

Other organisations who can help are:



My Rights, My Say is a free support service

Telephone: 0345 123 2303

www.reach.scot/myrightsmysay



Enquire is an advice service for additional support for needs and education.

Telephone: 0345 123 2303; Email: info@enquire.org.uk



Equality Advisory and Support Service (EASS) is a helpline which advises and assists people on issues relating to equality and human rights.

Telephone: 0808 800 0082; Textphone: 0808 800 0084

You can also write to them at:

Freepost
Equality Advisory Support Service
FPN4431



Make a Claim

If you think that you have been treated unfairly at school because you have a disability (the law calls this “discrimination”) then you can make a **claim** to the **Tribunal**.

Your discrimination **claim** can be about any part of your education or school life. For example, if you have been excluded and you think this is unfair because it relates to a disability, or you have not been able to attend a school trip because of a disability.

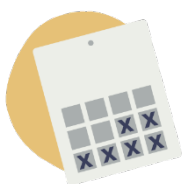


Can I make a claim?

You can make a **claim** yourself if you have **capacity** to do this. In Scotland, the law says that most children aged 12 years and over have capacity to make a claim. To make a claim you must:

1. Have a disability, **and**
2. Be in school education, **and**
3. Think you have been discriminated against because of the disability.

If you don't want to make a claim yourself, your **parent** can make a claim for you.



You must make your claim on time. The deadline for sending this form to the Tribunal is 6 months from the date of the discrimination that your claim is about.



How to complete the claim form

To make a [claim](#) you can complete the “**Make a Claim**” form.

You can complete the form yourself. If you have someone representing you they can complete the form for you or help you to complete it. If you have an [independent advocate](#), they can help you to complete the form.



Your Contact Details

On page 3 of the form, please tell us your contact details so that we can contact you.



The law says that the [Tribunal](#) can only send certain information by email. The [Tribunal](#) may need to send you information by post.



Your **Parent/ Carer/ Guardian's** Contact Details

On page 4 of the form, please tell us the contact details for your parent or carer. This can also include any guardian and any person who has parental responsibilities for you, for example a grandparent.

You don't have to tell us this, but it helps us, if your parent/carer/guardian decides to attend the hearing.

Your Responsible Body

On page 5 of the form, you must tell us which **responsible body** your claim is against. The **responsible body** is the organisation that is responsible for any discrimination against you.

The claim you make will be against the **education authority** or **trustees** who run your school if it is an independent or grant-aided school.



The Disability

The law says you have a disability if you have:

- ✓ a **physical impairment** (such as you have problems with your legs, eyesight or hearing),
and/ or
- ✓ a **mental impairment** (such as learning difficulties, autism, dyslexia or speech and language difficulties)
and

this impairment:

1. Is **substantial** – it is not a small problem
2. **Affects your normal every day activities** for example, your walking, dressing or communication
3. Is **long term** – it will last for more than a year



This could include conditions like cerebral palsy, autism, anorexia nervosa or a serious visual or hearing impairment.

The form asks to describe the disability by answering the following questions.



? What disability or disabilities do you have? Explain what your diagnosis is.

? When did the disability or disabilities start? For example, you might have been born with a disability or it might have developed following an accident. If you are not sure exactly when it started, put an approximate date, for example, you could say “summer 2012”.

? Describe the disability or disabilities. It is also important to say if the disability always stays the same or if it sometimes changes.

? Explain what medication and treatment you have, for example, dialysis, physiotherapy, speech therapy, counselling, braces and supports, etc.

? Describe how the disability or disabilities affects your ability to carry out normal day-to-day activities. This is not only your day-to-day activities at school but also your wider activities outside of school, for example, your walking, dressing or communication.

Please give as much information as you can.



Your Claim

Schools must not treat pupils with disabilities less favourably because of the disability. So if you have been treated unfairly at school because of a disability then you have been discriminated against.

Discrimination also happens when you have been put at a substantial disadvantage because your school has not made reasonable adjustments to take into account the disability.

You can make a disability discrimination [claim](#) to the [Tribunal](#) for different reasons.

For example, it may relate to:

- school admissions
- how your education is provided
- exclusions
- your ability to access any benefit, facility or service at school, for example, the school library, after-school club, etc.
- any other disadvantage, or something where you are denied choices or opportunities in relation to your education

So it can cover any aspect of your school life and the education that you receive.

Discrimination



Pages 8 to 10 of the form ask you to describe what discrimination you have suffered. You need to explain:

- when it happened,
- where it happened,
- who was involved (give their names)
- what happened
- why you believe what happened was wrong

Please give as much information as you can.



Your Supporting Information

You may have any letters or other papers which describe your disability and how it affects you.

You may also have other papers (such as a [co-ordinated support plan](#)) and letters to and/ or from the [responsible body](#) that you think support your claim.

Send copies of these to the [Tribunal](#) with your form.



Page 11 of the form also has a space for you to explain anything else which you would like to tell the **Tribunal** to help them understand your claim.



You should also think about any people you wish to come to your **hearing** to speak about the issues you have described in your claim (we call them 'witnesses') and write their names and addresses and how they can be contacted on the form.



Your Request

If the **Tribunal** agrees that you have been discriminated against, the **Tribunal** will be able to order that your **responsible body** puts things right.

The **Tribunal** does not have the power to order that you are paid money as compensation for the discrimination. However, they can make a wide range of other orders, such as:



- a statement that discrimination has taken place
- a written apology
- the school staff must do training
- policies must be developed
- if you have been excluded or suspended, that you are allowed to go back to school
- something else

The **Tribunal** would like to know what you think should happen. On page 13 of the form, please write what order you would like to request.

The **Tribunal** may decide that something else would be a good order to make in the circumstances and so may decide to do that instead or as well as your request.



Your Voice

Your voice, feelings and opinions matter.

The **Tribunal** will do its best to help you overcome any difficulties that you have when making your claim.



If you need help to communicate or if you require other support, for example, larger font, the use of your mobile phone or a tablet when you are at the hearing, this is not a problem.

Please let us know by filling in page 14 of the form. Explain what communication difficulties or other support needs you have and what the Tribunal can do to help during the **hearing**. Let us know if you would like to have something of your own in the hearing room, to help you feel more relaxed.



Your Representative

You have the right to have someone act as your representative when you make a claim. This could be someone who is not legally qualified but experienced in representing children at Tribunals or someone who is a lawyer.

A representative will ask questions on your behalf. They will explain your views to the Tribunal – but you can also speak to the Tribunal yourself at the [hearing](#).

It is important that you tell us who will be representing you so that we make sure they have all the information that they need.

If you already know who is going to be your representative then please tell us their contact details by filling in page 15 of the form.

If you name a representative, we will normally send all of our letters and correspondence to them.

If you do not have someone to represent you then a good place to start is by contacting the Children's Support Service – My Rights, My Say.



Your Supporter

As well as having a representative, you are also entitled to have someone attend the [hearing](#) to support you. This could be someone from home or a friend who knows about your disability and how it affects you.

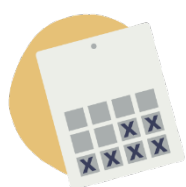
Your supporter will not be able to speak on your behalf in a [hearing](#) but she or he will be able to sit in with you during the [hearing](#).

You do not need to tell us their contact details now but if you know who this will be, please tell us their contact details by filling in page 16 of the form.

If you are unsure who to bring then you can contact the Children's Support Service – My Rights, My Say, or ask Enquire for advice.

Finishing Your Form

When the form is complete, please sign it and send it and any supporting information to the [Tribunal](#) by email or post. Remember to **keep your own copy** of everything that you send. If you are sending the form by email, you don't have to sign it.



Remember: You must make your claim on time. The deadline for sending this form to the Tribunal is **6 months** from the date of the discrimination that your claim is about.

At the same time you are also required to send a copy of your claim to:

Equality and Human Rights Commission
2nd Floor, 151 West George Street
Glasgow
G2 2JJ

LegalRequestScotland@equalityhumanrights.com

You can send this by email or you can post it to them

After you have sent your claim to the [Tribunal](#), your form will be passed to a [case officer](#). The case officer will:



1. Be your contact at the [Tribunal](#) and let you know what is happening
2. Check that the form has been given to the [Tribunal](#) within the correct time

3. Check that the information on the form is correct

4. Let you know if the **Tribunal** can deal with your **claim**



For more information about what happens next, please visit our website which has lots of useful information: www.healthandeducationchamber.scot



If you have any questions you can contact the **Tribunal** on 0141 302 5860

Word meanings



In this guide there are some words which you might not know. If the word is in **blue** then you will find the meaning of the word here.

Additional Support Needs - the reasons why you are not able to benefit from school education without additional support.

Children who have additional support needs may include those who:

- are looked after or care experienced
- have motor or sensory impairments
- have a mental health problem, for example anorexia nervosa
- are being bullied
- are particularly talented
- have a learning disability, for example Down's Syndrome
- have a learning difficulty, for example dyslexia
- are living with parents who are abusing substances
- have emotional or social difficulties
- are young carers

Capacity - this means the legal ability to do something.

Case Officer – a member of Tribunal staff who provides administrative support. The case officer is not a Tribunal member. The case officer is your contact person at the Tribunal.

Claim – an appeal to the Tribunal that an education authority or trustees have discriminated against a person because of a disability.

Convener – an experienced lawyer, who is the legal member of a tribunal.

Co-ordinated Support Plan (CSP) - a legal plan the education authority must put in place for your education if you have

complex additional support needs that are likely to last for more than 1 year and that need a great deal of support from outside the education department, for example from the NHS or the social work department.

A CSP will contain a lot of information about you including what your additional support needs are, your educational objectives, the support you need to achieve those objectives and who should provide the support.

Education Authority - the local authority (Council) who is responsible for your education. This will usually be the Council for where you live.

Hearing – a legal meeting where a tribunal listens to evidence from witnesses and hears legal arguments from representatives before it comes to a legal decision.

A tribunal hearing does **not** take place in a court.

Independent Advocate – a person who supports a child to give their views.

They are called ‘independent’ because they are not part of the Tribunal or the education authority and have no personal interest in the dispute.

They are called ‘advocates’ because they can speak on your behalf.

Parent – this is usually your mum or dad. The law says that this can also include any guardian and any person who has parental responsibilities for you, for example a grandparent.

Physical or mental impairment - something that makes it difficult for you to carry out your ordinary day to day activities without extra help or adjustments. This could include conditions like cerebral palsy or autism.

Reference – an appeal to the Tribunal about a decision or failure to do with a CSP, or an appeal against your education authority’s decision about your capacity or wellbeing.

Responsible Body - the organisation that is responsible for any discrimination against you.

If you attend a local authority (Council) school then it will be the education authority (Council) responsible for the school. If you attend a private or independent school then it will be the owners of the school.

The Tribunal – in this guide it means the Additional Support Needs Tribunal, which is in the Health and Education Chamber of the First-tier Tribunal for Scotland. Its logo looks like this:



The Tribunal has nothing to do with your school, social work, education authority or the NHS.

The Tribunal is a panel of 3 people who will consider a claim or reference and make a decision. One will be a convener who is an experienced lawyer and the other two are specialist members, with expertise in education, social work or health.

Trustees - the people who are responsible for managing a private or independent school. This means a school not run by a Council.

Wellbeing - the law says this means assessing how safe, healthy, achieving, nurtured, active, respected, responsible and included you are.