

How to Make a Claim

This guide is to help you understand what a disability discrimination claim is and how to complete the **Make a Claim** form. This guide is for children aged 12 to 15 years.

A cartoon illustration of a child with a yellow face, rosy cheeks, and pink hair, wearing an orange sweater and dark pants. The child is holding a small blue and yellow object. They are standing on a light blue hill. To their left is a black signpost with an orange arrow pointing right, containing the text 'Are you in the right place?'. The background features rolling light blue hills under a white sky.

Are you in the
right place?



Hello!

What is the Tribunal?

The **Additional Support Needs Tribunal** is part of the **Health and Education Chamber of the First-tier Tribunal for Scotland**. We call it the Tribunal in this guide.

The Tribunal is independent from your:

- school
- **education authority** (council)
- social work
- NHS

A Tribunal **hearing** is not the same as going to court. It is a legal meeting where Tribunal members listen to information before making a decision.

You can go to our needs to learn website for help using this link:
<https://healthandeducationchamber.scot/needstolearn/make-claim>

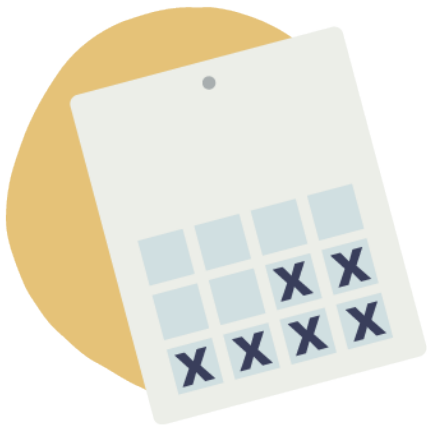
Where you see a word or words in **blue** the meaning is explained at page 25.

You do not have to do this on your own.

You can ask someone you trust to help you understand the information, fill in the form or tell the Tribunal what you think and feel.

This is about your education, your support and your rights.

Your views matter.



What is a claim?

To make a claim you can complete the Make a Claim form using this link, or print out a copy: <https://healthandeducationchamber.scot/additional-support-needs/publications/39>

A claim is a way of asking the **Tribunal** to look at something, if you think that you have been treated unfairly at school because you have a disability (the law calls this discrimination).

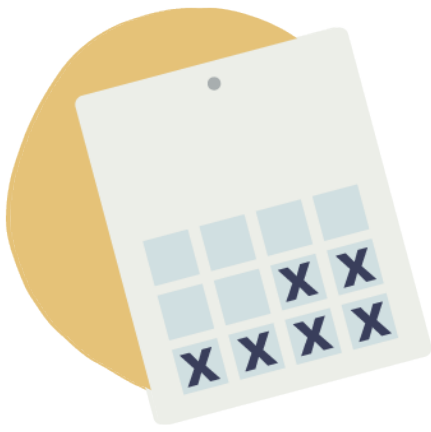
Schools must not discriminate against pupils because of their disability.

Discrimination can happen in lots of different parts of your education or school life. For example, you might think you have been discriminated against because -

- you were not allowed to go on a school trip because of your disability
- you were excluded from school because of something connected to your disability
- you could not use a school service or facility because of your disability
- you were not given a reasonable adjustment that would have helped you
- you were not allowed to take part in something at school because of something connected to your disability

It does not have to be something that happened in a classroom.

To make a claim you must have a disability, be in school education and think you have been discriminated against because of the 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 -



- have a disability
- be receiving school education
- think that you have discriminated again because of your disability

What does capacity mean?

It means being able to understand what you want the [Tribunal](#) to do and why you want this to happen.



Making a reference

To do this, you will need to fill in the **Make a Reference form** which is available on our **needs to learn** website using this link:

<https://healthandeducationchamber.scot/additional-support-needs/publications/215>

There is a separate guide to help you fill in a reference form called **Children's Guide – How to Make a Reference** which is available on our **needs to learn** website using this link: <https://healthandeducationchamber.scot/additional-support-needs/publications/215>

If you want to have a plan made stating the support you need in school and who will provide that (a **co-ordinated support plan) or you want something done with a co-ordinated support plan then you can make a different type of application, called a **reference**.**

If you have been told by your school that you or they are not able to do something about your education since you don't have **capacity**, and you don't agree, you can make a reference to the **Tribunal**.

If you have been told by your school that your **wellbeing** might be harmed by a decision that you or the school makes about your education, and you don't agree, you can make a reference to the Tribunal.

You can make a **reference and a claim** at the **same time** if you wish.



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.

You can also have a [representative](#).

Someone you trust can help you to -

- understand the form
- complete the form
- gather information
- prepare for a [Tribunal hearing](#)

The staff at the Tribunal can help you. You can write to the Tribunal, or you can phone or email us. Here is the Tribunal's contact information:



Additional Support Needs, Health and Education Chamber

First-tier Tribunal for Scotland

3rd Floor, Glasgow Tribunals Centre

20 York Street, Glasgow, G2 8GT

Telephone: 0141 302 5860

Email: ASNTribunal@scotcourtribunals.gov.uk



Other organisations who can help



My Rights, My Say is a free support service for children aged 12 to 15 years. You can find information online at: www.myrightsmysay.scot

Telephone: 0345 123 2303



Enquire is an advice service for additional support for needs and education. You can find information online at: www.enquire.org.uk

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. You can find information online at: www.equalityadvisoryservice.com

Freepost
EASS Helpline
FPN6521

Telephone: 0808 800 0082 Textphone: 0808 800 0084



How to complete the claim form

Before you complete the form, it can help to think about -

What happened?

What did someone do or say that you think was unfair?

When did it happen?

Do you remember the date or roughly when it happened?

Where did it happen?

Was it at school, on a school trip, during an activity, online or somewhere connected with your education?

Who was involved?

Who was there or involved in what happened?

What would you like to happen now?

What would make things better for you?

What would you like the school or **responsible body** to do differently?

You do not need to use legal words.

Use your own words to explain what has happened.

You can write things down, draw, or use another way of communicating.

You can complete the form yourself or your **representative can do this for you.**

If you have an **independent advocate, they can help you to complete the form.**



Contact Information

Your contact details

On page 4 of the form, please tell us your contact details so that we can write to you. Tell us your full name (and if there is another name you are known by), your date of birth and your home address.

Your parent or carer's contact details

On page 5 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 do not have to provide details of your parent. However, it can help the Tribunal if your parent decides to come to the hearing.



Responsible Body

On page 6 of the form, please tell us which **responsible body** your **claim** is **against**. The responsible body is the organisation that is responsible for any discrimination against you.

Your responsible body could be:

- your local **education authority** (council) who is responsible for your school education
- an independent school (run by **trustees**)
- a grant-aided school (run by trustees)



Your Disability

For the purposes of disability discrimination law, a disability is not just the name of a medical condition or a diagnosis. You do not need to have a diagnosis to have a disability.

The law says that you have a disability if you have a –

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

which –

- has a substantial effect on your ability to do normal day-to-day activities
- Has lasted, or is expected to last, for at least 12 months

Substantial means more than a small problem.

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

You may have more than one disability – if this is the case, tell us about each of the disabilities.



Your Disability

Page 7 and 8 of the form provides a list of disabilities and conditions that you can tick if they apply to you.

The list does not include everything that can be a **disability**.

If your disability is not on the list, use the 'Other type of disability' box on page 8 to explain.

Page 8 of the form asks you to tell us when your disability started and how this effects your day-to-day life and if you have any medication or treatment.

If you do not know the exact date, that's ok. You can give an approximate time. Think about what you find difficult and what happens because of your disability.

Medication or treatment

Tell us about any medication or treatment you receive. This could include:

- prescribed medication
- physiotherapy
- speech and language therapy
- counselling
- braces or supports
- occupational therapy
- other treatment

If you are not receiving medication or treatment, you can say so.



Your Disability

On page 9 of the form, tell us how your disability affects your day to day activities.

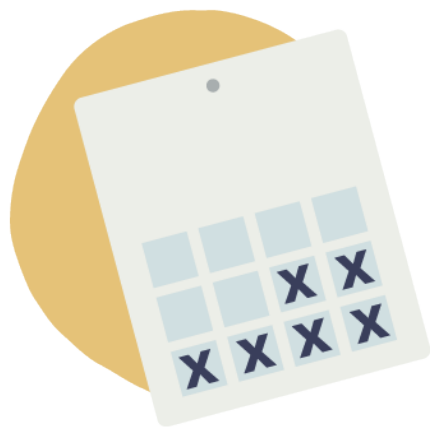
Think about what you do in everyday life. This is not just about school.

It could include things like:

- getting dressed
- washing
- eating
- walking
- travelling
- communicating
- sleeping
- reading
- writing
- concentrating
- using technology
- taking part in activities
- meeting people
- looking after yourself

You might find some things difficult all the time or some of the time.

Tell us how your disability affects you and what happens for you.



Your Claim

On page 10 of the form, tell us what type of discrimination your **claim** is about.



Schools must not treat pupils with disabilities less favourably because of their disability. 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 disadvantage which is more than a minor or trivial one because your school has not made reasonable adjustments to take the disability into account.

You can make a disability discrimination **claim** for different reasons, for example -

Admission to school

Schools should not make applying to a school harder because you have a disability.

Exclusion from school

Schools should not suspend or expel you because of your disability.

How your education is provided

You should not be prevented from accessing any benefit, facility or service at school because of your disability, for example, the school library or the deaf hub.

Another issue to do with education

This could include things like your ability to attend a school trip or participate in other activities, for example a Duke of Edinburgh excursion.



Your Claim

On page 10 of the form, tell us when the discrimination happened.

If you know the exact date, write it down. If you do not know the exact date, give as much information as you can about when it is likely to have happened.

On page 10 of the form, tell us where the discrimination happened.

This could include –

- in your classroom
- in the school office
- in the playground
- on a school trip
- on a school bus
- at a sports event
- during an after-school club
- somewhere else connected with your education

On page 11 of the form, tell us who was involved.

If you know their names, write them on the form.

On page 11 of the form, tell us what happened.

Tell us what happened in your own words. Give as much information as you can.

On page 12 of the form, tell us why you think this was wrong.

Explain why you think the discrimination was unfair and how you think your disability was involved.



Your Supporting Information

Page 13 of the form has a space for you to explain anything else to help us to understand your **claim**.

If you think something else will help us to understand your claim, for example a letter or a report, you can send a copy of this with your form.

Supporting information could include copies of -

- letters from your school
- letters from your **responsible body**
- a copy of your **co-ordinated support plan**
- reports from teachers
- reports from health professionals
- reports from social work
- reports from a service you attend outside of school
- other documents about your disability and how this affects you

You can send your form and any supporting information by email or post.

Remember to keep your own copy of everything you send.



Witness Information

Page 14 and 15 has a space for you to tell us who you want to come to your **hearing** to speak about the issues you have described in your **claim** form.

A **witness is someone who may be able to give the **Tribunal** information about what has happened.**

A witness could include -

- a **parent** or carer, including a foster-carer
- a teacher
- a pupil support assistant
- someone who works at your school
- a doctor
- a therapy nurse

Or someone who -

- knows about your disability and how this affects you
- has been involved in meetings about your education
- has other information that could help the Tribunal

Tell us your witnesses names and addresses and how they can be contacted.

You can have up to five witnesses.

If you want more than five witnesses, you will have to ask the Tribunal for permission.



United Nations Convention on the Rights of the Child

We call this the UNCRC for short.

Page 16 and 17 of the form asks whether you want to use the UNCRC as part of your **claim**. If you do, you should explain -

- Which UNCRC Article or Articles you want to use
- Why you think they are relevant
- What you want the **Tribunal** to do

If you are under the age of 18 years, you have rights under the UNCRC.

These rights are set out as Articles in the UNCRC, and every Article has a number.

These rights are now protected by Scottish law.

You can use the UNCRC if you think a public authority has not done what they should in relation to your rights under the UNCRC, provided the Tribunal can do what you are looking for.

A **responsible body** is a public authority for the purposes of the UNCRC.

You will find the UNCRC Articles in the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024:

<https://www.legislation.gov.uk/asp/2024/1/schedule>



Tribunal Orders

On page 18 of the form, please include information on the type of order or orders you would like to ask the **Tribunal** to make.

If the Tribunal decides that you have been discriminated against, it can make an order telling the **responsible body to put things right.**

The Tribunal cannot order the responsible body to pay you money as compensation for the discrimination. The Tribunal can make other types of orders. These include –

- a statement that a type of discrimination has taken place
- a written apology
- school staff must do training on disability
- school policies must be developed or updated on disability
- if you have been excluded, that you are allowed to go back to school
- that changes are made to how you are treated in school

It is important to tell us what you want to happen.

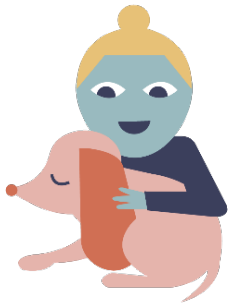
The Tribunal may decide that something else would be a good order to make and they may decide to do that instead of, or as well as the ones you have requested.



Your Voice

On page 19 of the form, please let us know what you need to be able to participate fully in the **hearing**.

Tell us about your communication preferences and any additional support we can provide.



Tell us what works for you

Tell us if there is something you would like to have with you at a hearing because it helps you to feel safe or comfortable, this can include bringing your pet animal.

Some children bring their favourite toys or fidget toys.

The **Tribunal** will also have fidget toys available.



Tell us if you need

- extra time to answer questions
- information explained in a particular way
- a communication aid
- a British Sign Language (BSL) interpreter
- another type of language interpreter
- to use your tablet or phone
- extra breaks

Your voice, feelings and opinions really matter.



Your Representative

On page 20, please tell us if you have a **representative** and we will make sure they have all the information that they need.

You don't have to have a representative but if you do, we will normally send all our letters and correspondence to them.

You have the right to have a representative

A representative is someone who can help you with your **claim** and speak to the **Tribunal** on your behalf.

Your representative could be -

- a lawyer
- someone who is not legally qualified but has experience supporting children

Your representative can -

- ask questions
- explain your views
- help you prepare
- speak to the Tribunal for you



Your Supporter

On page 21 of the form, please tell us who your **supporter** is, if you have one.

If you haven't decided who that is yet, you can tell us later, after you have sent your form in.

You have a right to bring a supporter to the **hearing**

A supporter could be someone from home or a friend who knows about your disability and how it affects you.

- A supporter can be in the hearing room with you.
- They can talk quietly to you during the hearing.
- They will sit near you.
- They cannot speak on your behalf at the hearing.



Finishing Your Form

When you have finished completing your form, please sign it and send it to the **Tribunal with any supporting information.**

You can send it by email or by post.

If you are sending the form by email, you don't have to sign it.

Check you have:

- Answered all the questions
- Explained what you want to happen
- Included any supporting documents
- Included **witness** details
- Told us about any support you would like at the Tribunal **hearing**
- Included your **representative's** details, if you have one
- Completed the UNCRC section if you want to include this in your **claim**

Remember to keep your own copy of everything you send.

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

You must also send a copy of your claim to the Equality and Human Rights Commission. You can send this by email or post. Their contact details are:

Equality and Human Rights Commission
140 West George Street, Glasgow, G2 2 HG

Email: LegalRequestScotland@equalityhumanrights.com



What Happens Next?

After you have sent your **claim** form to the **Tribunal**, this will be passed to a **case officer**.

The case officer will be your contact at the Tribunal and will let you know what is happening.

The case officer will check that the form has been given to the Tribunal within the correct time.

The case officer will check that the information on the form is correct and let you know if the Tribunal can deal with your claim.

If the Tribunal needs more information, the case officer will let you know.

For more information about what happens next, you can visit our needs to learn website: www.needstolearn.scot

If you have any questions, you can phone the Tribunal on 0141 302 5860.

The law says that the Tribunal can only send certain information by email. The Tribunal may need to send you information by post.



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. It will appear in blue the first time it is used in a section of the guide.

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 anxiety
- are being bullied
- are particularly talented
- have autism
- 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.

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 lot 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 (what your aims are at school), 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**.

Representative – a representative is someone who can complete the reference form and who can attend the hearing with you to present your position. A representative can be legally qualified or not. It is up to you who you choose.

Responsible Body – the organisation that is responsible for any discrimination against you. If you attend a local authority (council) school, then it will be council responsible for the school. If you attend a private or independent school, then it will be the owners of the school.

Supporter – A person who may come to a **hearing** to help a party during the hearing. A supporter can be a relative or friend of the party. A supporter may provide moral support, help to manage **Tribunal** documents, take notes and provide advice on points of law and procedure. A supporter may also advise a party on points they may wish to raise with the Tribunal during the hearing. Permission of the tribunal is needed before a supporter may attend a hearing.

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 an experienced lawyer and the other two have 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.

Witness – Someone who gives evidence to the **Tribunal**. They can do this by attending a **hearing** or by writing a witness statement. Some witnesses do both.

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