



**Tribunals Service**  
Special Educational Needs  
and Disability

# Disability Discrimination in Schools

## How to Make a Claim: A Guide for Parents

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## **Foreword**

Making a disability discrimination claim may be daunting for the parents involved. Our aim at the Health Education and Social Care Chamber of the Tribunal Service of which Special Educational Needs and Disability is a vital part, is to ensure that your claim is dealt with fairly and justly, indeed those words have been put into our procedure rules as the overriding objective of the Tribunal.

We aim to strike a balance, we must be independent and professional and give the attention and care that every claim deserves and we must ensure that proceedings are efficient and dealt with in an appropriate time, for everyone concerned. This means that the hearings are not entirely informal, because experience has taught us that some structure is needed to ensure that everyone has a chance to put their points across fully, but we aim to assist wherever possible. Certainly, lack of representation will not prevent the correct decision being taken on the evidence and all of our panels are highly experienced and used to dealing with cases both with and without representatives.

This booklet is produced with the aim of helping you to understand the process of making a claim, from first sending it to us to further appeal on a point of law.

You can be assured that everyone at the Health Education and Social Care Chamber will deal your claim in a professional manner.

**Judge John Aitken  
Deputy Chamber President (HESC)  
Special Educational Needs and Disability**

## About This Guide

The aim of this Guide is to help you through the Claims process with the First-tier Tribunal dealing with Special Educational Needs and Disability (SEND). The Tribunal is part of the system of courts and tribunals which decides appeals and Claims.

At SEND we hear appeals against decisions of Local Authorities about children with special educational needs and Claims against schools and Local Authorities where there has been disability discrimination in a child's education.

This Guide explains what a Claim for disability discrimination involves. It describes the process step-by-step.

The Special Educational Needs & Disability staff that look after the administrative side of Claims are called 'Clerks to the Tribunal'. They will handle your letters and telephone calls and deal with any queries.

## Using This Guide

The Guide is lengthy, because it provides detailed information on each of the stages in the Claims process. However, you do not have to read the Guide in one go. You may prefer to use it as a manual, checking each step as your Claim moves forward. Or you could use it for reference, looking up just those parts on which you might want more information

**This Guide also contains the Claim form which you will need to complete if you want to make a Claim to the Tribunal. You will find it In the middle of this booklet**

## Contacting Us

If you need to contact us you can do so

By Phone: 01325 392760

By Fax: 01325 391080 or 01325 391045 or 01325 391310

By Email: [SENDISTQUERIES@tribunals.gsi.gov.uk](mailto:SENDISTQUERIES@tribunals.gsi.gov.uk)

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### **ANNEX 1 – What is a Disability?**

## Section 1 - Making a Claim

**Please read this section carefully. It will help you decide whether you can make a Claim.**

The Tribunal can hear and decide parents' Claims of disability discrimination in education in England. This covers schools, nursery schools (but not private nurseries) and nursery classes in schools, as well as some functions of the Local Authority in providing education for children. You can make a Claim to the tribunal about:

### What Can I Claim About?

#### Admissions

Schools and local authorities must not discriminate because of a child's disability:

- In the way they decide who will get a place in schools. This includes any rules they apply when schools are 'over subscribed' (more people apply than there are places), and how they use these rules.
- In the terms on which they offer pupils a place at the school.
- By refusing to accept, or deliberately not accepting, an application from a disabled pupil for admission.

#### Education and associated services

A school must not discriminate in the education and associated services it provides for disabled pupils. This covers all aspects of school life and the teaching provided to pupils. It also includes what happens at lunchtime and other breaks and activities such as after-school clubs, school trips and school orchestras. (Note: Adult education provided in schools and services to parents are not dealt with by the Tribunal.)

#### Exclusions

It is against the law to discriminate against a disabled pupil by excluding him or her from the school because of their disability. This applies whether it is a permanent or fixed term exclusion and includes lunchtime exclusions.

But not in every case, for example:

- *Local Authority admissions appeal panels* will consider a Claim of disability discrimination in the case of a child who does not have a statement and who has been refused a place at a Local Authority maintained school that you want your child to attend.
- *Independent appeal panels* consider disability discrimination in relation to all permanent exclusions from Local Authority maintained schools.

If you are claiming disability discrimination in either of the above cases, you will need to contact the Local Authority for information about this.

We will hear all other Claims about schools and Local Authorities when they are exercising their educational responsibilities. An explanation of who you can bring a Claim against is dealt with in this booklet.

**Important note: There is a time limit for making a Claim. You must send your Claim to the Tribunal within 6 months of the alleged discrimination**

**OR, if you have used the Equality and Human Rights Commission conciliation service, within 8 months of the alleged discrimination**

## **What is Disability Discrimination?**

### **Disability discrimination is**

- when a person is treated less favourably than someone else, because of his or her disability or
- when a person who is disabled is placed at a substantial disadvantage because reasonable adjustments have not been made to take account of that person's disability

However there are certain circumstances when that discrimination may be justified.

### **When can discrimination be justified?**

Even though your child may have been treated less favourably than other pupils, or has been placed at a disadvantage, the discrimination will not be illegal if the school or Local Authority can show that it was justified in the circumstances. For example, discrimination may be justified:

- When a disabled pupil is refused admission to a school, as a result of a 'permitted form of selection' – that is, a lawful system for choosing pupils
- Because an adjustment would require the provision of auxiliary aids and services or the removal or alteration of a physical feature. These are excluded from the reasonable adjustments a school is required to make
- Because of the costs and practicality of making a 'reasonable adjustment'
- Because of health and safety issues

These are matters you should bear in mind when making your Claim.

### **What is a Disability?**

The Disability Discrimination Act 1995 defines a disability as a physical or mental difficulty which has a substantial (more than minor or trivial) and adverse long-term effect (to last for at least a year or for the rest of their life) on the disabled person's ability to carry out normal day-to-day activities. (Please see Annex 1 for a fuller definition).

There are some conditions that are automatically treated as a disability without the need to explain the effect on a child's ability to carry out normal day-to-day activities. These are cancer, HIV and multiple sclerosis, and where a child is certified or registered as blind or partially sighted.

#### **What conditions are not covered by the definition?**

Children who wear glasses are not covered if that is their only difficulty. Conditions that happen regularly or are only temporary, such as hay fever or broken bones, are excluded, as are addiction to alcohol, tobacco and drugs.

#### **Can a child without a disability ever be discriminated against?**

If you or your child are not disabled, but are victimised (treated worse than others) by a school or Local Authority because you have given evidence or information in connection with a Claim that you or another adult is making, or proposing to make, against the school or Local Authority, then you may be able to make a Claim under the Disability Discrimination Act for victimisation.

### **Have I got a case?**

This Guide deals with how to make a Claim. It cannot tell you whether you have a good case or not. Tribunal Service staff will be happy to help with telephone queries about your Claim as it goes through the process, but they cannot give you an opinion about whether you are likely to win or lose, or whether you should take a particular step or not.

#### **Can I get help if I decide to make a Claim?**

You may be entitled to get Legal Aid (or public funding) for assistance in preparing your Claim. A solicitor will be able to advise you on whether you are entitled to this. The Law Society or your local Citizens Advice Bureau will be able to give you the names of solicitors who participate in the Legal Aid scheme and are experienced in these matters. **Note** you will not be able to get public funding for a lawyer to represent you at the Hearing.

### **What is likely to be involved?**

Unlike going to court, there are no fees involved. The Service is a free service. The Tribunal can make a contribution towards your out of pocket expenses in attending your tribunal hearing, such as travel costs.

From start to finish, the process of Claiming typically takes four to five months depending on the type and complexity of the case. Usually only one visit to the Tribunal is required – for the actual hearing. Hearings normally start at 10am.

Preparing your Claim may involve you in gathering evidence to support your case.

## Section 2 - Starting a Claim

### Time-limits

There is a time limit for making a Claim. **You must send your Claim to the Tribunal within 6 months of the alleged discrimination** Or, if you have used the Equality and Human Rights Commission conciliation service, within 8 months of the alleged discrimination.

### Who do I Claim to?

Who you make a Claim to will depend on (a) what you are claiming about and (b) the type of school involved.

This table summarises the position

	Independent (private) and non-maintained schools and some academies*	Maintained (Local Authority) schools, including voluntary schools and city technology colleges and some academies*.
Admissions	First-tier tribunal SEND	Local Authority admissions appeal panels, unless your child has a statement.
Permanent Exclusions	First-tier tribunal SEND	Local Authority independent appeal panels
Fixed-Term Exclusions	First-tier tribunal SEND	First-tier tribunal SEND
Education and associated services	First-tier tribunal SEND	First-tier tribunal SEND

\* **Academies** The arrangements for academies will vary depending on how they deal with admission appeals and appeals against permanent exclusions. You will need to contact the academy your child is at or is wanting to attend to

find out whether there are local arrangements in place to deal with appeals against admission decisions and permanent exclusions. If there are, then SEND will not be able to deal with them.

### **How do I contact a Local Authority appeal panel?**

If you are appealing about disability discrimination in admission to a Local Authority maintained school or permanent exclusion from one, you will need to contact your Local Authority or the school itself for information on how to appeal and who you appeal to.

### **If I make a Claim to the Tribunal who is the Claim against?**

Your Claim is against the responsible body, which is the body which the law says will be responsible in cases of disability discrimination. You do not have to tell us who you think the responsible body is as long as you give us the details of the school or education setting (full name and address) where the alleged discrimination took place, and the name of the Local Authority (if it is a maintained school). In certain cases the Local Authority can be a responsible body if it is taking a decision that directly affects your child.

### **What is the responsible body?**

The organisation that is responsible for the school, or for the activity during which you say there was discrimination. You cannot Claim against a head teacher or an individual person you consider was responsible.

In most cases the responsible body will be as set out in the following table, but there can be exceptions.

<b>Type of school</b>	<b>Responsible body</b>
Maintained school	Governing body in general
Pupil referral unit	Local Authority
Maintained nursery	Local Authority
All independent schools	The owner (or those responsible for management such as trustees or the governing body)
Non-maintained special school	The owner (or those responsible for management such as trustees or the governing body)

### **What do I need to show?**

If you make a Claim to us, we will need to be sure of the following:

- That your child is disabled
- That the alleged discrimination was connected to your child's disability
- That the alleged discrimination was not justified
- What it is you are asking the tribunal to do

### **Will I need to prove my child is disabled?**

Yes, you will need to say on your Claim form what disability your child has and provide evidence of a medical or professional diagnosis if you have one. You should also explain how your child's disability affects his or her day-to-day activities. If your child has a Statement of Special Educational Needs you should include it.

If you are unsure whether your child has a disability you should look at the definition given in Annex 1.

The Tribunal will consider whether your child is disabled before considering whether there has been discrimination.

## **The Claim form**

You can make a Claim by filling in the Claim form in the middle of this booklet. You will need to explain clearly what happened and when; show how it is connected to your child's disability and why the action taken by the school or LA was not justified. You will also need to ensure that the form is signed by you or a legal representative. A representative who is not a lawyer cannot sign the form on your behalf.

**Section 1 – Your child-** This section is asking for details of your child.

**Section 2 – Your child's disability** – This section is asking about your child's disability and the effect it has on their day-to-day ability to do things.

**Section 3 – Your contact details-** This section is asking for your details and any representative that you may have.

**Section 4 – Special requirements-** This section is asking if you have any special requirements with regards to the Claim documents and the Hearing.

**Section 5 - Your Claim** – This section asks for information about your Claim and the school or education setting involved. It is where you need to state what happened and why you are claiming. There are some guidance notes later on in this booklet to assist you

**Section 6 – Putting things right** – This section is where you can tell us what you would like to happen if the Tribunal decides that your child has been unlawfully discriminated against.

**Section 7 – Special Educational Needs Appeals-** This section asks if you have an existing Special Educational Needs Appeal or if you would like more information about appealing.

**Section 8 – Lodging your Claim** – This section explains where your completed Claim form needs to be sent.

**Remember, your Claim must reach the Tribunal within 6 months of the alleged discrimination (or 8 months if you have used the Equality and Human Rights Commission conciliation service)**

## **Frequently asked Questions**

### **What if I don't send all the right information or documents?**

We may have to contact you about getting the information or documents to us. If we do not have enough papers to register your Claim we will return the Claim form to you with a list of what we require. You will then have 10 working days to send them to us. If this means that the Claim form will arrive after the six month time limit, you will have to ask for an extension of the time in which to appeal.

We can register a Claim even if we do not have all of the documents. If this happens we will write to you asking you to provide the missing documents within 10 working days. If we do not receive them in that time, the tribunal can strike out your Claim. This means that your Claim cannot continue.

### **Do I have to send original documents?**

No. Please ensure that the documents you send to us are **photocopies** of the originals.

### **Do I have to send the Claim myself?**

No, but you must ensure that you or your legal representative sign the Claim form. If you are Claiming jointly with another person, both of you must sign the form. Please be aware that we will only send any information about the Claim to the first person named on the Claim form or your representative if that is what you ask us to do.

If you have a representative and you wish them to receive all the letters and papers for the Claim on your behalf, then you should give their name and address on the form. A legally qualified representative may sign the form on your behalf if you have given them permission to do so. If you do state on the form that your representative is going to receive all the papers, then please be aware that you will not receive any correspondence in connection with your Claim before the hearing. You will be sent the Final Decision when it is issued. You must let us know in writing if you decide that you no longer need a representative, or if the details of your representative change.

### **What if I have any other needs?**

Please ensure that any other needs you have are explained on your Claim form. For example, if you need a signer or an interpreter at the Hearing, or need any special arrangements to be made so you or your child can attend the Hearing you should say so on your form.

### **How long will my Claim take?**

You should have a decision within four to five months after making your Claim. If August is included then it will be five to six months as August is not recognised as a working month by the Rules that govern the Tribunal.

### **How can I use the conciliation service?**

The Equality and Human Rights Commission runs this independent service. Contact their helpline ☎ 08457 622 633 or email [enquiry@drc-gb.org](mailto:enquiry@drc-gb.org).

### **Will using this service affect my Claim?**

No, and anything that is said at the conciliation meetings cannot be quoted at the Hearing unless you agree.

### **Is there a Code of Practice?**

Yes, there is a Code of Practice which has been issued by the Disability Rights Commission (which is now the Equality and Human Rights Commission). Responsible bodies and the Tribunal must take into account the advice given in the Code of Practice when dealing with cases of disability discrimination. You can contact the Commission on 08457 622 633 or email [enquiry@drc-gb.org](mailto:enquiry@drc-gb.org). The Code of Practice is available from the Equality and Human Rights Commission website at:

[www.equalityhumanrights.com/en/publicationsandresources/Documents/Disability/Schools\\_code.doc](http://www.equalityhumanrights.com/en/publicationsandresources/Documents/Disability/Schools_code.doc)

## **Section 3 – The steps up to the Tribunal Hearing**

### **What happens after you send us your Claim?**

We will register your Claim within 10 days of receiving it and send a copy to the responsible body. We will tell you that we have registered your Claim and inform you of the date your Claim will be heard. Your Claim will be given a number. You should use this number whenever you contact us about your Claim.

When we write to you to tell you we have registered your Claim we will also send you a **Further Information Form**. We will also tell you the date which has been set for case management of your Appeal. Case management is when a Tribunal Judge looks at the case and decides what further steps the parties need to take before the Hearing and sets a timetable for these. The Further Information Form is an important part of this process and asks you to say what other information you will be bringing to support your case at the Hearing and the names of any witnesses and anyone else you want to attend the hearing. The Form comes with explanatory notes.

You will also be sent a **Request form**. You should use this form if you want to make any changes to your Claim or the information you have given us, or if

you want the Tribunal to require someone else to do something that will help your Claim.

The **Further information form** and the **Request form** is also available on our website [www.sendist.gov.uk](http://www.sendist.gov.uk)

### **What will the responsible body do about my Claim?**

The responsible body must prepare a response. This must be received within 30 working days of the responsible body receiving your Claim from us. They will send to both us and you a copy of their response and any accompanying documents. The responsible body will also be asked to complete and return a Further Information Form. ***Please let us know if you do not receive the response from the responsible body within 8 weeks of us registering your Claim.***

The responsible body will have the same timetable as you to send us further information and evidence. Their response must explain the reasons behind their actions and name the person who is dealing with the Claim. They should provide a summary of the facts and issues they feel are relevant to the Claim.

The responsible body may also ask us to strike out (bring to an end) your Claim if they believe:

- it is not one that the Tribunal can deal with
- that it is about a matter that has already been dealt with
- that someone else is the responsible body

If this happens we will send you a copy of their application so you can comment on it and we will give you the opportunity to explain to the Tribunal why you think your Claim should continue.

### **What happens if the responsible body does not oppose the Claim?**

If the responsible body agrees with the Claim you have made and agrees to act to end the discrimination, we will write to you and ask if you wish to withdraw your Claim.

If you wish to continue with the Claim it will be passed to a Tribunal Judge who will decide on any further steps to be taken.

### **What if the responsible body does not reply?**

If the responsible body does not send a reply by the end of the time allowed to respond, your Claim will be passed to a Tribunal Judge who will decide what action should be taken. This may include refusing to allow the responsible body to take any further part in the proceedings.

In that case your Claim will be passed to a Tribunal Judge who will either

- decide whether your Claim can be decided on the basis of the papers you have sent in, or

- decide whether a Hearing should take place where you would be present but the responsible body would not.

### **Can I comment on the responsible body's response?**

Yes. The time by which any further comments and information you want to provide will be decided by a Tribunal Judge when your Claim goes through the Case Management process.

## **Case Management Process**

Each Claim will be 'case managed' following registration. This process is to ensure that you, the responsible body and the Tribunal have all the information necessary for the tribunal panel to reach a decision on the day of the Hearing.

After you and the responsible body have completed a **Further Information Form** and returned it to the Tribunal, your case will be managed by a Tribunal Judge who will look at the information you have provided and decide what further action needs to be taken by you and the responsible body, and will set a timetable for this. In many cases case management will be done on the papers and you will not have to be involved. There will be some cases, however, when a telephone conference or a face-to face meeting will be necessary. The Tribunal will contact you if that is the case and will explain what will happen and when.

If you or the responsible body are unable to do what you are asked to do or to meet the timetable set you must send a **Request Form** saying this and giving your reasons. We will send you this form when we register your Claim. It is also available on our website. A Tribunal Judge will decide whether an extension is given or not.

## **Before the Hearing**

### **Can I send in any more documents?**

You should try to send in all your documents with your Claim. The Case Management timetable will set out if and when other documents can be sent.

### **Can I bring new evidence to the Hearing?**

Not normally. If you want to rely on evidence outside the Case Management timetable you will have to apply to the Tribunal on a **Request form**, explaining why it was not sent at the right time. Permission may or may not be given depending on the reasons you give.

### **Where do I get a Request Form from?**

The form can be obtained from the Tribunal by contacting us:  
**☎ 01325 392760 or from our website [www.sendist.gov.uk](http://www.sendist.gov.uk)**

### **What if the responsible body has more evidence?**

The same rules apply to the responsible body as to you.

### **What if I find it difficult to get hold of a document from the responsible body that is important to my case?**

If you apply to us well before the Hearing on a **Request form**, the Tribunal may be able to get the responsible body to release it. The Tribunal will ask the responsible body if it has any objection to providing the document. If it does the Tribunal will consider the objections when deciding whether to order the responsible body to release the document. You may also be able to ask the Tribunal to require someone who is not directly involved in the Claim to release a document in their possession.

### **Can I withdraw my Claim?**

Yes, but this can only be done with the consent of the Tribunal. If you send us a **Request form at least 10 working days** before the Hearing telling us that you want to withdraw, consent will normally be given.

If the responsible body concedes or a parent withdraws **less than 10 working days** before the Hearing the application needs to be made in writing on the **Request form** setting out the reason why the withdrawal is late. Your request will be considered by a Tribunal Judge, who will decide what further action, if any should be taken.

## **Section 4 - The Hearing**

A DVD is available to guide you through the Hearing. The DVD is available upon request from the Tribunal. You can call **01325 392760** to request your copy.

### **Where will my Hearing be held?**

We hold Hearings throughout the country. We will try to hold your Hearing as close to where you live as possible and we aim to limit travel to no more than one-and-a-half hours. Hearings normally take place in Tribunal Service buildings but in special circumstances we may hold a Hearing in a local hotel.

### **What time will my Hearing start and how long will it last?**

Your Hearing will be fixed for a certain time which is usually 10am. Please arrive at least 30 minutes before the Hearing time so that you can meet the clerk, familiarise yourself with the arrangements and ask any questions you may have. The length of your Hearing will depend on what you are claiming about and the number of witnesses attending.

### **Who will hear my Claim?**

Your Claim will be heard by a panel of three Tribunal members. There will be a legally qualified Tribunal Judge and two specialist members who have knowledge and experience of children with special educational needs and disability.

### **Do I have to come to the Hearing?**

You do not have to come to the Hearing, but it will be helpful if you do. The panel will want to hear anything you have to say and you may want to ask questions yourself.

## Who else can attend?

### Can I have a representative at the Hearing?

You can have someone at the Hearing to represent you whether or not you come yourself. That person does not have to be a lawyer. It may be someone from another organisation or a friend. If you do have a representative who will be attending, you must inform us well before the Hearing on the further information Form who that will be.

You can have a solicitor or barrister representing you, but you will not get public funding for this.

### Can both parents go to the Hearing?

Yes, a parent or a person with parental responsibility for the child may attend the Hearing even if they were not the person making the Claim. If there is a reason why you do not want that person to attend you will need to tell us why they should not. We may agree to limit that person's involvement in the case.

### Can my child attend the Hearing?

Yes, your child can attend and speak to the panel and give evidence if they want to. However, it will be for the panel to decide how much of the Hearing your child attends and it is unlikely that they will be allowed to stay for the whole Hearing. You must therefore arrange for someone to look after your child whilst they are not in the Hearing. ***The clerk or other tribunal staff will not be able to look after your child and there may not be a suitable place in the building for them to be looked after by the person caring for them.***

### Can I bring anyone else to support my case?

Yes, you can bring another person with you for support but they will not be able to take part in the Hearing, and you must tell us on the **Further Information Form** who they will be. If you think that you want more than one supporter, please ask us on our **Request form**. The Tribunal have power to exclude any person from the Hearing. As it is a private Hearing we will not agree to people other than supporters attending. If your representative is training someone on our Tribunal process, we will normally allow them to attend provided that they make a request in writing at least **10 working days** before the Hearing. They will not be allowed to take part in the Hearing.

## Witnesses

### Do I need to say if I am bringing witnesses?

Yes, you will need to inform us on the **Further Information Form** we send to you who you will be bringing with you. If you do not give us this information they may be prevented from coming to the Hearing. If you change your witnesses you should inform us immediately.

**Please note:** You are normally allowed to bring up to five witnesses to the Hearing but it is often not necessary to bring that number. If you wish to bring any more you will need to request permission in writing on the **Request form** explaining why you need more witnesses.

### **What if a witness refuses to come to the Hearing?**

If you have asked someone to come and they are unhappy about attending, you can write to the Tribunal explaining why you feel it is important that they attend. We will need to receive your request **at least 15 working days before the Hearing**.

If the Tribunal agrees, it will issue a witness summons for you to give to the person. That person would then have to attend the Hearing unless there are very good reasons why they cannot.

### **Will I be able to ask my own questions?**

Yes, you will have the chance to ask questions of the responsible body, to tell us about your Claim and to add anything you feel is important but that has not been mentioned.

## **Expenses**

### **What expenses can be claimed?**

You and your witnesses can Claim travel expenses to come to the Hearing. If you bring a friend or a relative to look after your child, you will be able to Claim their travel expenses as well.

You should use public transport where possible (bus, tram, standard class rail travel). If you travel by car you can Claim a fixed amount for mileage. We will only pay for taxi fares if public transport is not available, or if you have particular needs (you must tell us about these before making your Claim for expenses). Any taxi fare should be authorised in advance. We cannot pay for car parking and tolls.

Your witnesses can also Claim a fixed amount for loss of earnings. We will send you details about claiming expenses when we write to you to tell you about the arrangements for your Hearing. At the Hearing the clerk will give you the relevant forms to fill in and return to the Tribunal. We will then either send the expenses by post or put them straight into your account. If waiting for the expenses would cause you financial difficulty you should let us know in advance and we may be able to arrange to give you a cheque on the day of

the Hearing. If you do not tell us in advance we will not be able to give you a cheque on the day.

## **SECTION 5 - After the Hearing**

### **The Decision**

#### **When will I know the tribunal's decision?**

You should receive the written decision and reasons by post within approximately 10 working days of the Hearing. The decision will be sent to both yourself and the responsible body.

#### **How long does the responsible body have to carry out the order?**

The tribunal will tell the responsible body to carry out the order within a given time. They must do this by law. If they do not do so, you may have to apply to the High Court to enforce the tribunal's order.

#### **Will you confirm that my child was discriminated against?**

If we think that your child was unlawfully discriminated against because of his or her disability, we will say so in our decision.

#### **What can you tell the responsible body to do?**

We can order the responsible body to do anything reasonable to put right the discrimination, short of paying financial compensation. The law does not allow us to order compensation.

#### **What sort of things might you order them to do?**

We can order things that will help make up for any opportunities that your child has missed, or prevent further discrimination in the future. Examples might include:

- Training of school staff
- Drawing up new guidance for staff
- Changes to school or Local Authority policies
- Extra tuition, to make up for lost learning
- Relocating facilities (but not changing physical premises)
- Admission of your child to an independent school if the school had previously refused
- A written apology to your child
- Trips or other opportunities to make up for activities that your child may have missed.

## Further Appeal

### **What can I do if I am not happy about the Tribunal's Decision?**

We will send you a leaflet setting out in detail what you can do when we send you the Decision. However, the following is a brief outline.

When you have received a Decision from the Tribunal you may consider that the Decision is wrong in law or that there is another reason why the Tribunal should look again at its Decision. If you think it is wrong in law you can appeal to the Administrative Appeals Chamber of the Upper Tribunal but you must first apply to us for permission to appeal.

Applications for permission to appeal and the other application you can make following a Tribunal Decision are explained in detail in the Guidance that will be sent to you with your decision.

### **Who can make an Application?**

You can make an Application if you have been a party to the Claim in the First-tier Tribunal. This includes a parent, or person having parental responsibility, a local authority or a responsible body for a school.

### **What Applications can I make?**

Following the Tribunal's decision about a Claim of Disability Discrimination it is possible to make the following Applications:

A - You can apply for **permission to appeal** if you think that the Tribunal's Decision was wrong in law.

B - You can ask the Tribunal to **set aside** its Decision in certain circumstances.

These Applications are explained in detail in the Guidance we will send you with your Decision.

### **When can I make an Application?**

An Application must be made so that it is received by us **no more than 28 days from the date on the letter** which the Tribunal sent you with the decision.

If you are applying more than 28 days after the Decision was sent, you will need to apply for an extension of time, giving the reasons why you are applying late. If the Tribunal does not agree to extend the time, your application will not be considered.

## Annex 1

A person has a disability if he or she has a physical or mental 'impairment' that has a 'substantial' and 'long term' effect on his or her ability to carry out 'normal day-to-day activities'.

People who have had, but no longer have, a disability are also protected from discrimination.

**'Impairment'**- includes sensory difficulties, for example sight or hearing difficulties.

**'Mental impairment'** – covers a range of impairments relating to mental functioning, including 'learning difficulties'.

**'Substantial effect'** – an effect that is more than minor or trivial.

**'Long term'** – has lasted 12 months or more, is likely to last 12 months or is likely to last the rest of the person's life.

**'Normal day-to-day activities'** – those that people carry out often and regularly. The legal test is the effect on categories of 'capacity' listed in Schedule 1 of the Disability Discrimination Act 1995:

- Mobility (moving around)
- Manual dexterity (using your hands)
- Physical co-ordination
- Continence
- Ability to lift, carry or move everyday objects
- Speech, hearing or eyesight
- Memory or ability to concentrate, learn or understand
- Understanding the risk of physical danger.

You can find more information in:

- The Disability Rights Commission Code of Practice (Schools)
- The Disability Rights Commission Guidance on matters taken to account of in deciding questions relating to the definition of disability

For more details contact the Equality and Human Rights Commission's helpline on 08457 622 633 or email [enquiry@drc-gb.org](mailto:enquiry@drc-gb.org)



# Tribunals Service

Special Educational Needs  
and Disability

## DISABILITY DISCRIMINATION CLAIM FORM

WE ARE REGISTERED UNDER THE DATA PROTECTION ACT

Please fill this form in using black ink and capital letters

### Section 1 – Your Child

**Surname**

**Date of Birth**

**First Names**

**Boy or Girl**

#### **Ethnic Monitoring**

It would help us if you could circle one of the following. You do not have to, but the information gives us useful statistics. We keep all information confidential.

Bangladeshi	Indian
Black African	Pakistani
Black Caribbean	White
Black Other	Other-Please specify
Chinese	

## Section 2 -Your Child's Disability

Please describe your child's disability and how it affects him or her on a day-to-day basis. If there is a medical or professional diagnosis you should send a copy of it with this form. If your child has a statement of special educational needs you should also include a copy.

--

## Section 3 - Your Contact Details

### Parent One

Mr, Mrs, Miss, Ms, Other	
Surname	
First Names	
Relationship to child.- Please explain how you are entitled to make this Claim (e.g., Parent, guardian, foster parent or person who has care of the child)	
Address	
Postcode	
Daytime Telephone Number	
Evening Telephone Number	
Mobile Number	

Fax Number	
Email Address	

**Parent Two**

Mr, Mrs, Miss, Ms, Other	
Surname	
First Names	
Relationship to child.- Please explain how you are entitled to make this Claim (e.g., Parent, guardian, foster parent or person who has care of the child)	
Address	
Postcode	
Daytime Telephone Number	
Evening Telephone Number	
Mobile Number	
Fax Number	
Email Address	

To save costs and deal with your Claim as quickly as possible we should like to use email to communicate with you. If you would prefer us not to use email please indicate by putting a cross here

**You're Representative (If applicable)**

Mr, Mrs, Miss, Ms, Other	
Surname	

First Names	
Profession/Organisation –	
Address	
Postcode	
Daytime Telephone Number	
Fax Number	
Mobile Phone Number	
Email Address	
Is your representative a lawyer	YES <input type="checkbox"/> NO <input type="checkbox"/>

**Who should receive information about the Claim?**

**First Parent**

**Second Parent**

**Representative**

**Important:** We can only send papers and documents to one of the people named on this form. If you do not say we will automatically send them to your representative (if you have one), otherwise to the first named parent.

## Section 4 – Special Requirements

If you have any special requirements, including adjustments which may be needed at the place the Hearing is held, then please inform us in the box below.

## Section 5- Your Claim

### What are you claiming against?

Please tick the boxes that are applicable

Your child's admission to an independent or non-maintained school or education setting	<input type="checkbox"/>
--	--------------------------

Your child's permanent exclusion from independent school or non-maintained school or education setting	<input type="checkbox"/>
--	--------------------------

Your child's fixed term exclusion from a school or education setting	<input type="checkbox"/>
--	--------------------------

Another issue to do with your child's education.	<input type="checkbox"/>
--	--------------------------

**If your Claim concerns a school or education setting** please give details of the school or education setting concerned:

Name of school or education setting

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Address and postcode


Phone number

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If the school is not an independent school or non-maintained school which Local Authority is responsible for it?

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Which Local Authority area do you live in?

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When did the alleged discrimination take place? Please give the date or dates

**How did the alleged discrimination take place?**

It is important that you explain what happened, why you consider it to be unjustified, who was involved and in what way your child's disability was the reason for the alleged discrimination. Please give as much detail as you can. If you have received letters from the school or LA which relate to the matter you are claiming about, you should send copies of those with this form as well as any other relevant information.

If you need more space please continue on a separate sheet of paper but make sure that it is firmly attached to the form.

## Section 6 – Putting things right

We have no power to award money as compensation for any discrimination that may have taken place. If we decide in your favour, what would you like us to do?

## Section 7 – Special Educational Needs Appeals

The tribunal also deals with appeals against decisions made by Local Authorities about children's special educational needs. If you would like us to send you a copy of our booklet "How to appeal an SEN decision" please tick the box below:

If you have made or are making a Special Educational Needs appeal, if the Tribunal considers that it would be appropriate to do so, would you like this Claim to be heard at the same time as your appeal?

Yes  No

Please provide us with the date your appeal was sent in.


Please provide us with the appeal number- If you have already been given one

## Section 8 – Sending us Your Claim

Once you have filled in the Claim form, make sure that you have signed it. Then, please send the form and all other relevant documents to us at:

**By post:**

First-tier Tribunal (HESC)  
Special Educational Needs and Disability  
Mowden Hall  
Staindrop Road  
Darlington  
DL3 9BG

 **By Fax:** 01325 391080

**Please note we cannot accept an application form via email.**

**If you need to contact us by telephone our number is: 01325 392760**

Please ensure that you keep a copy of your Claim.

**You must send you're Claim to the Tribunal within 6 months of the alleged discrimination OR, if you have used the Equality and Human Rights Commission conciliation service, within 8 months of the alleged discrimination.**

<b>Parent One signature</b>	
<b>Parent Two signature</b> (you need only sign this if you are Claiming as well as parent one)	
<b>Legal Representative signature</b> (this box only needs to be signed if you have given your legal representative permission to act for you and sign on your behalf)	
<b>DATE</b>	