



Education Tribunal for Wales

Appeal case statement guidance for applicants

About this guide

Please read this alongside our appeals guidance booklet, which you'll find on The Publications Register page of [our website](#).

This booklet provides helpful information about preparing case statements for appeals to the Education Tribunal for Wales (ETW). We cannot cover everything that would be useful for every appeal. Depending on the nature of your appeal, you may not need to send all the information mentioned in this leaflet. If we have already received information with your application, you do not have to tell us again. Please contact ETW if you have any questions about the process.

Tribunal clerks are the staff who process appeals. They answer your letters and telephone calls. They can only answer questions about the administration of your appeal. They cannot give legal advice. This means they cannot give their opinion, or recommend whether you should take a particular action.

Who this guide is for

This guide is for anyone making an appeal to ETW. This may include:

- children and young people under the age of 25;
- the parents of children of compulsory school age, and younger;
- case friends; and
- representatives.

About ETW

ETW hears and makes decisions on appeals about the additional learning

needs of children and young people. You can make appeals against certain decisions made by local authorities and further education institutes if you disagree. ETW is independent of government, and our decisions are legally binding.

Overriding Objective and Obligation to Co-operate

The Tribunal's main intention is to deal with cases fairly and justly. The Tribunal expect all parties to cooperate with each other, and the Tribunal, to progress the appeal. This may include exchanging information and documents with other parties, or cooperating with the Tribunal's requests more generally.

Language Preference

ETW welcomes receiving correspondence and phone calls in Welsh or English. We will respond in Welsh to any correspondence received in Welsh. Corresponding in Welsh will not lead to a delay in our response.

This document is also available in Welsh. Please contact the Tribunal for a Welsh version of this document. You may also submit forms, documents, and make written representations to ETW in Welsh or English.

Information resources

- [The Education Tribunal for Wales Regulations 2021](#)
- [The Additional Learning Needs Code for Wales 2021](#)
- [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018](#)
- [The Additional Learning Needs \(Wales\) Regulations 2021](#)

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1. Introduction and important information

Introduction

Your case statement is the information that you want us to look at as part of your appeal. It is your chance to explain the reasons for bringing the case forward, and provide evidence. You should provide documents, reports, letters, people's views, and anything else that you think supports your case.

The respondent will also have to prepare a case statement. A respondent is the organisation whose decision you are appealing against. We will send them a copy of your appeal and case statement, so their response is their case statement. The respondent is always a local authority or a further education institute, such as a college.

Time limits

We must receive your case statement no later than 8 weeks from the date when the respondent told you in a letter about its final decision. This is the same time limit for appeal applications. If it is close to the end of your 8 week time limit, we advise you submit your case statement at the same time as your application. If this is not possible, please contact us as soon as possible for advice, or to request an extension from the President.

Time limits and disagreement resolution services

If you decide to use the local authority's disagreement resolution services (DRS) before you appeal to the Tribunal, we will extend your time limit to apply by 8 weeks. This would make the time limit 16 weeks from the date of the respondent's decision letter to submit your case statement and application.

If you decide to use DRS after you send your appeal to the tribunal, you may make an application to the president of the Tribunal to pause the appeal process for 8 weeks. You may wish to pause the appeal in case DRS solves the problem. Using, or not using, DRS does not affect your right to appeal to the Tribunal.

You may also wish to continue discussing the disagreement with the respondent without DRS. If through these discussions, or through DRS, you come to any agreements with the respondent, it would be helpful if you let the Tribunal know.

The respondent's case statement

A respondent is the organisation whose decision you are appealing against.

The respondent must prepare a case statement and send it to the tribunal within 4 weeks of receiving your case statement. The Tribunal will ensure you receive the respondent's case statement.

The final bundle of papers

If you are not legally represented, the respondent will put together the final bundle of papers. You only need to submit your case statement and evidence to the Tribunal.

The bundle is both your case statement and the respondent's case statement combined, with all duplicate documents removed. Once complete, the respondent will send you and the Tribunal the final bundle of papers. If you do not respond to them in 5 days, they may presume you agree with the contents.

You must help the respondent to prepare the bundle by providing copies of any documents they need. If you do not help the respondent, the panel may decide you are trying to withhold evidence that is unhelpful to your case. The respondent must also provide you with any documents they hold, for the same reason.

If you are legally represented, both the legal representative and the respondent must create their own bundles. Once complete, the Tribunal will combine them into one bundle of papers, and ensure you've seen the respondent's case statement. The process is explained later in this guidance booklet.

Late written evidence

You can ask the Tribunal panel at the hearing whether they will consider late written evidence. The Tribunal panel will consider your request if:

- the respondent agrees to include the evidence; or
- you can show that the evidence was not, and could not reasonably have been, available before the deadline. You should send this evidence to the Tribunal and the respondent so that it arrives at least 5 working days before the hearing. The panel will still consider the respondent's opinion.

This evidence must also be unlikely to get in the way of the efficient management of the hearing. Long or complicated documents introduced at the hearing could cause difficulties or delays.

The tribunal panel may still accept late written evidence that does not meet these conditions. They will only do so if you can show that there is a serious risk of prejudice if the evidence is not accepted.

The tribunal panel will refuse to accept late written evidence if they think that it would be against the interests of justice.

Please bring 5 copies of any written evidence to a hearing if either the tribunal or the respondent has not received it at least 5 working days before.

The hearing

At the hearing, you and your witnesses will have a chance to explain your case and give your views to the tribunal panel. You can also ask questions to the respondent and their witnesses.

The evidence you send us before the hearing and what you say on the day are equally important. However, the Tribunal's decision can only take into account the evidence you provide. If you want the Tribunal to take account of something, make sure that it is in your evidence.

You can find more information about hearings in our guidance document *Hearing guidance (ETW16)* [on our website](#).

2. What to include in your case statement

What information is essential?

It is a rule of the Tribunal's Regulations that you provide:

- the views of the child or young person on the issues raised in the appeal; or
- the reason why you are not providing the child or young person's views.

If the appeal is about a child, you must also include:

- the views of their parents on the issues raised in the appeal; or
- the reason why you are not providing their parents' views.

A parent refers to a person who has parental responsibility or care of the child within the definition of the Education Act 1996.

What other information should be included?

The reason for the appeal will decide what information you should provide. If it's relevant to your case, consider submitting the following:

- An explanation of the circumstances, your reasons for bringing a case, and relevant views.
- The respondent's decision letter.
- Other letters that contain important information (but not if they are about organising dates and times of meetings).
- Relevant professional reports from the last three years.
- Annual review reports from the last two years which are relevant to the issues the Tribunal will consider.
- Assessment reports, or offers of places at any schools or institutions. Details of placement and transport costs would also be useful.

You should also include an explanation of the circumstances, your reasons for bringing a case, and any relevant views.

Please consider the questions below as suggestions or prompts. Answer or evidence them if you think it explains your case. You may not need to answer all the questions, but they may help you decide what information to include.

Additional learning needs

- What additional learning needs does the child or young person have?
- What additional learning provision, or help, are they receiving?
- Who has given help (for example, a teacher, an assistant or a therapist) and for how long?
- What progress have they made? If earlier assessments or tests have taken place, please send us copies if the results help to demonstrate your case.

School or education institute

- What subjects or activities does the child or young person find difficult?
- Are there other subjects that they are good at?
- Does a teacher or an assistant give them additional support? If so, for how long, and in which subjects?
- If the school or institute has taken them out of the class for small-group or individual teaching, who does that teaching? Which subjects are they taught separately in, and what is the aim of the teaching?
- Do they use any special equipment?
- Do they have any other plans, other than their IDP? If they do, please provide a copy. Copies of earlier plans may also be useful.
- What does the school or institute say about their progress? Copies of reports, notes of annual review meetings and exam results can help us.
- How many pupils are there in their class?
- How many adults look after the class?

Medical

- Does the child or young person have a medical condition that affects their education? If they do, how does it affect their education?
- Is any medical help part of their individual development plan?
- Have the doctors said that the effect on their education is likely to change? If so, in what way?

Therapy (speech and language therapy, physiotherapy, occupational therapy etc).

- Has the child or young person already had therapy? Please let us have copies of any professional reports or assessments.
- What changes do you want in their therapy?
- How do you expect changes to therapy, or other therapies, would help?
- What have therapists said about your child's progress and the therapy he or she should have in the future?

Changing schools or education institutes

- How will the education provided by the school or institution you suggest suit the child or young person's needs?
- Why do you want them to go there, rather than to another school or institution?
- Does the school or institution specialise, or have experience, in teaching children with the disability or learning difficulty they have?
- Does the school or institution teach the full National Curriculum?
- What size class would your child join?
- How many adults look after the class?
- If the child or young person would live at the school, is there an educational reason?
- Unless the school is a maintained school, what is the cost of a place there?
- How long would it take to get to and from the location, and what would it cost?
- To make sure we have as much information as possible about the school or institution of your choice, please send us a copy of its prospectus.

Education at home

- Why would it be better for your child to be educated at home, rather than at school?
- What detailed arrangements are you suggesting?
- How much would the arrangements cost?

How to submit your case statement

You can submit your case statement by email or by post.

If submitting by email, please:

- include a content list in Word format, noting name of document, its date and its author;
- submit all other documents in PDF format; and
- provide passwords for any locked documents.

If submitting by post, please:

- send copies rather than original documents;
- include a content list, noting name of document, its date and its author;
- do not staple documents; and
- do not add your own page numbers.

3. Putting a bundle together

Responsibilities

If you are not legally represented, the respondent is responsible for putting the bundle together. You only need to submit your case statement and evidence to the Tribunal.

If you are legally represented, your representative is responsible for putting your bundle together.

Putting a bundle together

A bundle should constitute one PDF file of all documents, and one Word file with an index, detailing the contents of the PDF bundle. The index should detail the type, date, author (including position/profession), and page number for each document.

Where available, a bundle must include:

- a) The appeal application, any amended grounds of appeal and the current Statement (if applicable)
- b) Both parties' Statement of Case
- c) The respondent decision letter
- d) Any requests for changes made by a party.
- e) Tribunal orders and any documents ordered to be filed by the Tribunal
- f) Any relevant correspondence between the parties. Please note, this should not include correspondence about dates of meetings or matters that are not directly relevant to the appeal
- g) Relevant professional reports which have been prepared no longer than three years from the date of the appeal
- h) Annual review reports which are relevant to the issues to be decided by the Tribunal for the last two years
- i) Any assessment report and offer of a place (if applicable) from the proposed educational establishment named in the IDP. If applicable, details of the cost of the placement, and the cost of transport for the child or young person to the placement.
- j) Final working document and /or an agreed list of outstanding issues
- k) Statements of witnesses to be given in evidence

You will need to ensure that all documents are complete, legible, and not duplicated.

For items D to K, there is a page limit of 300 pages. This page limit is not a target and many cases will not need this number of pages. Items A to C are not included in the 300 page limit. This ensures parties to the hearing have the opportunity to put their case in full. If you wish to increase the page limit, you will need to apply to the Tribunal. Your request should contain clear reasons about why it is necessary for the fair hearing of the matter.

Submitting bundles

Legal representatives must submit bundles by no later than 5 working days after the case statement period. The respondent will then know not to include any documents that are in your bundle. If your legal representative does not provide the bundle in time, the Tribunal panel may prevent you from presenting any documents at the hearing.

The respondent should provide their bundle of papers by no later than 10 working days after their case statement period. If they do not, the Tribunal panel may prevent them from presenting any documents at the hearing.

Once both bundles are submitted, the Tribunal will combine the bundles and the indexes. They will send these to your representative and the respondent at least 10 days before the hearing.