



Education Tribunal for Wales

Claim case statement guidance for applicants

About this guide

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

This booklet provides helpful information about preparing case statements for claims to the Education Tribunal for Wales (ETW). We cannot cover everything that would be useful for every claim. Depending on the nature of your claim, 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 claims. They answer your letters and telephone calls. They can only answer questions about the administration of your case. 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 a claim 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, and

claims of disability discrimination. ETW is independent of government and local authorities, 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 Equality Act 2010](#)
- [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 claim. 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 responsible body is the respondent

The responsible body is who you submit your claim against. They will also have to prepare a case statement.

Identification of the responsible body depends on the type of school, and the circumstances of each case. We will identify the responsible body when we receive your claim application. The below table may help, though there are exceptions to it.

Type	Responsible body
Maintained school	School governors (as a whole)
Maintained nursery	The nursery's local authority
Pupil referral unit	The unit's local authority
All independent schools	The school's proprietor
Non-maintained special school	The school's proprietor

We also call the responsible body "the respondent" as they must respond to the claim for the Tribunal. We will send them a copy of your claim application and case statement, so their response is their case statement.

Time limits

There is a strict time limit by which we must receive your case statement and any other evidence. We'll tell you when this is. Normally you have 8 weeks. There are restrictions on the admission of evidence that is received after the deadline for case statements has passed.

Sometimes, people want to send us videos, recordings and photographs. The same time limit applies to sending them in, but please send us five copies of any recording and photograph. You should try to keep recorded evidence as short as possible. Please also note that we cannot, for data protection issues, accept evidence that contains information, recordings or pictures of children other than your own.

Time limits and disagreement resolution services

If you decide to use a disagreement resolution service (DRS) after you send your claim to the tribunal, you may make an application to the president of the Tribunal to pause the claim process. You may wish to pause the claim 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

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.

Their case statement must say whether they oppose your claim. If they do oppose it, they must explain why. They should provide a summary of the facts, explain their actions and let us know what the child or young person thinks about the issues.

If they do not oppose your claim, the tribunal chair will decide whether the tribunal can deal with your case on the papers, or whether there should still be a hearing. If they decide to hold a hearing, they may issue a direction that prevents the respondent from attending.

If the respondent do not send a response by the end of the time limit, we will write to them asking for an explanation. A tribunal chair will consider any reply and decide what should happen. If the tribunal chair prevents the respondent from further involvement, they will decide whether they can deal with your case on the papers received, or whether there should be a hearing without the respondent.

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.

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.

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.

If you decide not to come to the hearing or send a representative, you are given a chance to provide your thoughts after the case statement deadline. In this instance, additional representations should be submitted to the Tribunal at least 5 working days before the hearing. This allows your comments on the responsible body's case statement to be heard at the hearing.

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 claim; or
- the reason why you are not providing the child or young person's views.

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

- the views of their parents on the issues raised in the claim; 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.

You can submit the views of the child or young person in various formats, to support the child's ability or preference. This can include:

- writing;
- drawings;
- audio/visual recordings; and
- someone else writing down the answers they give to questions.

The child's views must be about the issues to do with the claim.

What other information should be included?

Depending what your claim is about, consider:

- a description of the child or young person's disability, and the effect it has on their ability to do day-to-day activities;
- evidence of a medical or other professional diagnosis relating to the child or young person's disability;
- an explanation of the way your child's disability was the reason for the alleged discrimination;
- a timetable and description of events or actions which you claim were discriminatory;
- a factual description of the treatment, or failure to make a reasonable adjustment, that your claim relates to
- the circumstances leading up to that treatment, or failure
- key factual details (such as the date, time, place and number of instances) of the treatment, or failure, you are claiming was discriminatory

- why you think that the treatment was unlawful
- the steps or adjustments you think the responsible body should have made to prevent the alleged discrimination; and
- what you would like the Tribunal to order, to put things right.

3. Putting a bundle together

Responsibilities

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

- 1) The claim application, any amended grounds of the claim and the current IDP (if applicable)
- 2) The Responsible Body's response to the claim and any supplementary or amended response
- 3) Any requests for changes made by a party
- 4) Tribunal orders and any documents ordered to be filed by the Tribunal
- 5) Any relevant correspondence between the parties
- 6) Statements of witnesses to be given in evidence

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

For items 3 to 6, there is a page limit of 200 pages. This page limit is not a target and many cases will not need this number of pages. Items 1 and 2 are not included in the 200 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.