



Education Tribunal for Wales

# Hearing guidance

## About this guide

This guide will inform you about what to expect at a Tribunal hearing, and how you should prepare.

[The Publications Register](#) is a list of all guidance and forms. You can find this on our website.

## Who this guide is for

This guide is for anyone coming to a Tribunal hearing with the Education Tribunal for Wales.

## 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.

## 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.

## 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 case. This may include exchanging information and documents with other parties, or cooperating with the Tribunal's requests more generally.

## 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](#)

## **Hearings held by video call**

A member of the secretariat will arrange a test call with you in the weeks leading up to the hearing so you can connect easily on the day. If you have any specific concerns about connecting by video call, please let us know before the test so we can assist you appropriately.

You can connect to the meeting from any private place with an internet connection. Please be reminded that it is a formal hearing, as in any other court. You should dress appropriately, and ensure the meeting cannot be overheard or disturbed by anyone who is not attending. We suggest muting your microphone when you're not speaking so that any potential background noise is eliminated.

## **Hearings held in person**

Hearings held in person are usually held in a hotel meeting room, no more than a 1 hour drive from the applicant's house.

We aim to start the hearing on time, so you should arrive at least 10 to 15 minutes before it is due to start. Please let us know if you are likely to have difficulties arriving on time, otherwise the hearing may start without you.

When you arrive, our clerk will meet you and explain briefly what will happen and where things are. You can ask the clerk any questions you have about the hearing. When the members of the tribunal are ready to start, the clerk will collect you and take you to the hearing. If you do not wish for a child to attend the whole hearing, you will need to arrange for someone to look after them when they're not in the hearing as the Tribunal staff cannot do this.

## **Your Representative and Witness**

We will already have asked you to give us the names of who is coming to the tribunal to present your case (your representative), and the names of the witnesses you are bringing. If you are a parent, we will also have asked you to let us know whether your child is coming and the names of anyone else you have asked to come along to support you.

There are limits to who can come to the hearing. These are explained in our How to Appeal or How to Claim booklet and in the guidance we have already sent you to help you fill in your attendance form.

If you haven't given us details of any representative or witnesses you are bringing, the tribunal chair may prevent them from coming to the tribunal hearing.

You are responsible for making sure that your representative and witnesses know where and when the tribunal is taking place, and for making sure they arrive on time.

## **Presenting your Case**

At the hearing, the tribunal will make sure that you have the chance to fully explain your points of view. To do this, the tribunal chair will make the procedure as informal as possible. The tribunal members will ask questions without using legal or educational jargon.

The tribunal chair will start by introducing the panel members, and talking about the hearing process. They will suggest that different parts of the case are dealt with one at a time, rather than asking you to make a statement about the whole of the case. They will set out these topics at the start of the hearing and you will have the chance to agree these and add to them.

The topics will be discussed one by one. This will give everyone the chance to concentrate on points as they come up. If you disagree with something that is said, you should make a note of it and raise the issue when it is your turn to speak, rather than interrupt the meeting.

Generally, the tribunal chair will first ask the Local Authority (LA) or Responsible Body (RB) representative to explain their view on each point, and then ask the parent (or representative) to explain theirs. The tribunal will hear any evidence from witnesses during that point's discussion, and both the parent and LA or RB will be able to ask questions about each other's evidence. Witnesses must know all the facts they present.

The tribunal will ask both sides:

- what they think the relevant facts are;
- what conclusions they think should be drawn from these; and
- what they think should be done in the interests of the child.

You can discuss more than the points raised by the tribunal. You will have a chance to add anything you feel is important but which has not been mentioned. We suggest that you make a list beforehand of what you would like to be considered. You can cross off each point as it is discussed and bring up any which were left out.

When everyone has had their say on the topics the tribunal identified for discussion at the start, the tribunal chair will ask you whether there is anything else, not yet covered, which you would like to raise. You will then be given the chance to sum up. This gives you the opportunity to tell the tribunal what you feel are the main points of your case. You can also say which parts of the evidence you have presented are most important.

## **Documents and any Late Written Evidence**

You should bring all the documents that are relevant to your case to the hearing. We will send you a numbered set of all the papers we have received by the end of the case statement period. You should bring these to the hearing along with copies of any late evidence you have presented or received from either us or the other side.

The tribunal chair will deal quickly with any late written evidence you have sent (that is, after the end of the case statement period) at the start of the hearing. The Tribunal panel will consider your request if:

- the other side 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 late evidence to the Tribunal and the other side so that it arrives at least 5 working days before the hearing. The panel will still consider the other side'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.

## **Areas of Agreement**

If you have reached an agreement with the other side before the hearing on some of the matters you are appealing or making a claim about, you can send a written note setting out the areas you agree on. You may also bring a written agreement to the hearing. The chairman will normally accept a written statement covering the areas you agree on.

**Result of the Appeal or Claim**

The members of the Tribunal will make their decision by considering all the evidence after the hearing finishes, but will not normally tell you the result on the day of the hearing. We will send it to you by post or email later.

We aim to send our decision and the reasons for that decision to you within 10 working days of the hearing. Some cases need a little more time before we can send out a decision. We cannot tell you our decision over the phone.