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Special Educational Needs and Disability Tribunal

How to Appeal



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Definitions

Annual Review	The review of a statement of special educational needs which the Education Authority must carry out within 12 months of making a statement or, as the case may be, of the previous review.
Appendices	The advice given by you and the Education Authority when your child was assessed. The Education Authority should attach these to the final statement.
Education Authority	The local body responsible for providing education, for making assessments and maintaining statements.
Department	Department of Education – the local government department responsible for education.
Dispute Avoidance and Resolution Service (DARS)	There are arrangements that the Education Authority must provide to help prevent or sort out disagreements between parents, whose children have special educational needs and the Education Authority or school. They are independent. They are designed to bring together the different sides in an informal way to try and sort out the disagreement through discussion. Using these arrangements is voluntary and does not affect a right of appeal to us.
Direction	An order by the President which you or the Education Authority must reply to.
Documents	Letters or reports, including a statement of special educational needs.
Further or Higher Education College	An Institute of Further and/or Higher Education providing education for students over 16, which is not funded by the Education Authority.
Grant-aided school	A school which is funded by the Department or the Education Authority.
Independent school	A school which is not funded by the Department or the Education Authority.

Note in Lieu	A note that the Education Authority may issue to a child's parents and school when, following a statutory assessment, the Education Authority decides not to make a statement. It should describe the child's special educational needs, explain why the Education Authority does not think a statement is needed and recommend provision that is appropriate to the child. All the advice received during the assessment should be attached to the note sent to the parents, and with their agreement, should also be sent to the child's school.
Order	The decision on an appeal after the hearing.
Parent	In relation to a child or young person includes any person who is not a parent of the child but who has parental responsibility for him or her or who has care of the child.
Special educational needs (SEN)	A child has special needs if he or she has learning difficulties that need special educational help.
Statement of special Education needs	A document that sets out a child's needs and the extra help he or she should get.
Statutory assessment	A detailed examination of a child's special educational needs which will include educational, psychological, and medical advice. It may lead to a statement of special education needs.
Strike out	A tribunal may strike out an appeal (bring it to an end) if the Education Authority has applied for the appeal to be brought to an end, (or the President has directed that the appeal should be brought to an end) because it is not valid. In either case you can send us written comments or ask for the strike out to be considered at a tribunal hearing.
The 1996 Order	The Education (Northern Ireland) Order 1996.
The 2005 Order	The Special Educational Needs and Disability (Northern Ireland) Order 2005.
The Tribunal Regulations	The Special Educational Needs and Disability Tribunal Regulations (Northern Ireland) 2005.
Tribunal hearing	The meeting at which an appeal is considered.
Witness summons	A document which orders a witness to go to a hearing.
Working day	Any day other than a Saturday, a Sunday, any day from 25 December to 1 January (both dates inclusive), a public holiday or a day in August.

Guide to the Special Educational Needs and Disability Tribunal

This booklet explains the circumstances in which you can appeal to the Special Educational Needs and Disability Tribunal and how your appeal will be dealt with. If, after reading this, you want to appeal to the tribunal, you can use the form in the centre of this booklet.

Where can I get help to appeal?

Parents groups or voluntary organisations which help people with special needs will usually be able to give you any help you may need. We have provided a list at the end of this booklet. You may also be able to get legal aid for help in preparing your appeal. You will find the address and phone number of local solicitors in the phone book and Yellow Pages. You will not be able to get legal aid for a solicitor to represent you at the hearing.

The Tribunal's staff (the Secretariat) will be happy to explain procedures to you, or to clarify how the appeal form should be filled in. They cannot advise what evidence you should submit in support of your appeal, or what witnesses to bring.

The Tribunal

What is the Special Educational Needs and Disability Tribunal?

The Special Educational Needs Tribunal for Northern Ireland was set up by the Education (Northern Ireland) Order 1996. On 1 September 2005 it was renamed the Special Educational Needs and Disability Tribunal under the Special Educational Needs and Disability (Northern Ireland) Order 2005. It considers parents' appeals against the decisions of the Education Authority about children's special educational needs, where the parents cannot reach agreement with the Education Authority.

It also deals with claims of disability discrimination in relation to children at school. There is a separate Disability Discrimination Claim Booklet, available from the Special Educational Needs and Disability Tribunal secretariat, which provides more information on this.

Is the Tribunal independent?

Yes, the tribunal is independent. The President and the Chairmen are completely independent Judicial Officer holders appointed by the Judicial Appointments Commission for Northern Ireland (NIJAC). The Department of Justice appoints the other lay members of the tribunal.

How to Appeal

Why might an appeal be necessary?

If you disagree with the Education Authority about how your child's special educational needs should be assessed and/or met, you should first try to reach agreement with the Education Authority. If you cannot reach agreement with the Education Authority, and are still not happy about its decision, you can appeal to the tribunal. You can continue to try and sort matters out with the Education Authority after sending in your appeal. There is a two-month time limit for appealing (see page 10) so you should act quickly.

When can I appeal to the tribunal?

There are specific times when you can appeal to the tribunal following a decision that the Education Authority has taken. These are listed in the Education (Northern Ireland) Order 1996 as amended by the Special Educational Needs and Disability (Northern Ireland) Order 2005. They are listed below.

You can appeal to the tribunal if the Education Authority:

- decides not to carry out a statutory assessment of your child's special educational needs, following a request by you or your child's school, but only if no assessment has been carried out in the previous six months (Articles 20 and 20A of the 1996 Order apply); or
- decides not to issue a statement of your child's special educational needs, after a statutory assessment, although the Education Authority may have issued a 'note in lieu' setting out your child's needs which can be met by the school's own resources (Article 17 of the 1996 Order applies).

If the Education Authority has made a statement of your child's special educational needs or has changed a previous statement, you can appeal against:

- the description of your child's special educational needs in part 2 of the statement. (Article 18(1A)(a) of the 1996 Order applies);
- the description of the special educational provision that the Education Authority thinks your child should get in part 3 of the statement. (Article 18(1A)(b) of the 1996 Order applies);
- the school named in part 4 of the statement. (Article 18(1A)(b) of the 1996 Order applies); or
- a decision not to name a school in part 4 of the statement. (Article 18(1A)(c) of the 1996 Order applies.)

If you disagree with the content of parts 2 or 3 of the statement, you will need to say why you are not happy with what the Education Authority has written and explain what you think should be included. If you disagree with either the school named or the type of school named in part 4 of the statement, you will need to give the name and address of the school, or the type of school, you want your child to go to. You will need to say why you want your child to go to this school.

If the Education Authority is satisfied that you are making suitable arrangements for the special education set out in the statement to be made for your child, the Education Authority does not have to name a school in part 4 of the statement. If you are making your own arrangements, you can still appeal. If you disagree with the Education Authority's decision not to name a school in part 4, you will need to tell us why.

You can also appeal to the tribunal if:

- the Education Authority turns down your request to change the school named in your child's statement, so long as you have asked for a grant-aided school and your child's statement has been maintained by the Education Authority for at least a year. You will need to give the name and address of the school and the reasons why you want your child to go to it (Paragraph 12 and 13 of Schedule 2 of the 1996 Order as amended by Schedule 1 of the 2005 Order); or
- the Education Authority turns down your request or your child's school's request to re-assess your child's special educational needs, so long as it has not made a new assessment for at least six months (Articles 20 and 20A of the 1996 Order apply); or
- the Education Authority decides not to maintain your child's statement any longer (Paragraph 12 and 13 of Schedule 2 of the 1996 Order as amended by Schedule 1 of the 2005 Order); or
- after re-assessing your child, the Education Authority decides not to amend the statement (Article 18(1)(c) of the 1996 Order applies).

If the Education Authority has decided not to re-assess your child, or decided not to maintain or amend the statement, you will need to tell us why you disagree with the Education Authority's decision.

If you have made an appeal following the Education Authority's decision not to maintain your child's statement, the statement must remain in place until the appeal is decided or withdrawn. You must contact us as soon as possible if you want to appeal against the Education Authority's decision to cease the statement.

Are there any issues the tribunal cannot deal with?

You cannot appeal to the tribunal against any of the following:

- the Education Authority's refusal to name an independent school if it has not made a new or amended statement;
- the way the Education Authority carried out the assessment;
- the length of time the Education Authority took;
- the way the Education Authority is arranging to provide the help set out in your child's statement;
- the level of funding being provided by the Education Authority;
- the way the school is meeting your child's needs;
- the description in parts 5 and 6 of the statement of your child's non-educational needs (for example, transport costs) or how the Education Authority plans to meet those needs; or
- a decision by the Education Authority not to amend a statement after an annual review.

We may not be able to consider an appeal if your child is over 16 and not on the roll of a school. We will not be able to consider an appeal if your child has left school and is going to a further or higher, education college.

What can I do if I am not happy about any of these issues?

If you are concerned about any of these, you should talk to the school or the Education Authority, or both. If you cannot reach agreement, you may be able to complain to the [Department of Education \(www.deni.gov.uk\)](http://www.deni.gov.uk) or to the [Northern Ireland Ombudsman \(www.ni-ombudsman.org.uk\)](http://www.ni-ombudsman.org.uk). Your local [Citizens Advice Bureau \(www.citizensadvice.co.uk\)](http://www.citizensadvice.co.uk) will be able to help you. Further information is contained in the booklet 'Special Educational Needs: A Guide for Parents', which is available free of charge from the Department of Education.

If your child is over 16 and is being educated in a further, or higher, education college, you will need to discuss your concerns with the college.

Do I have to use the Dispute Avoidance and Resolution Service (DARS) the Education Authority has told me about?

The Education Authority must provide arrangements to prevent or sort out disagreements and this service is referred to as the [Dispute Avoidance and Resolution Service \(DARS\)](#). DARS is independent and is designed to bring together the Education Authority, schools and parents in an informal way to sort out disputes. Using these arrangements is voluntary and does not affect your right to appeal.

Is there a time limit for making an appeal?

Yes, if you decide to appeal, you have two months to do so. We must receive your appeal no later than 2 months after the date of the letter from the Education Authority telling you, you could appeal their decision.

If you miss this deadline, contact the Tribunal Secretariat on (028) 9072 4886 or (028) 9072 4847 as soon as possible for advice.

How do I appeal?

If you want to appeal, you should fill in the Notice of Appeal form inside this booklet, and send it to us at the address given on the form. You will need to give your reasons for appealing and send copies of certain documents.

How much detail should I give?

It is important that you give us your “reasons for appealing”. They do not have to be long or written using legal terminology, but you must say more than “I disagree”. You should say what you disagree with in the Education Authority’s decision and tell us what you want us to do, and why? If your child has a statement there is some advice on what you need to say on page 8. Depending on what your appeal is about, you may want to explain:

- why you think your child is not making progress;
- why you think your child needs extra help at school;
- what sort of extra help you think your child needs;
- if your child has a statement, what changes you want to see; and
- if you want your child to go to a different school, why you think that that school will meet your child’s needs better.

What documents should I send with my Notice of Appeal form – see SEN 1?

Regulation 7(1)(b) of the Tribunal Regulations states what you must send with your Notice of Appeal form and reasons for appealing. You must enclose:

- a copy of the Education Authority’s letter which gives the decision you are appealing against;
- a copy of the statement of special educational needs, if your child has one; and
- a copy of all the papers attached to the statement (the appendices), eg:
- Appendix A – Parental Representations

- Appendix B – Parental Evidence
- Appendix C – Advice from Child's Parent
- Appendix D – Educational Advice
- Appendix E – Medical Advice
- Appendix F – Psychological Advice
- Appendix G – Social Services Advice
- Appendix H – Other Advice obtained by the Education Authority

In some cases not all of the appendices listed above will apply. If in doubt, please contact the Special Educational Needs and Disability Tribunal secretariat, for advice on (028) 9072 4886 or (028) 9072 4847.

If you are appealing against the Education Authority's refusal to assess or re-assess your child, you should also send a copy of your letter, or the form from the school, to the Education Authority asking them to carry out a statutory assessment.

If you are appealing because you disagree with the Education Authority's decision about the school it has named in the statement, you must give the name and address of the school you want your child to go to.

What if I don't send in all the right papers?

If you do not send all these documents to us within the two-month time limit, we may not be able to accept your appeal. If documents are missing we will write to you and tell you what you need to send to us for your appeal to be registered. We will usually give you 10 working days after that. If you do not have any or all of the above documents but still wish to appeal, you should contact the Tribunal's Secretariat in plenty of time before the end of the two-month time limit and explain why you do not have them.

Do I have to send the original documents?

No, you should keep the original letter and documents and only send photocopies. If there are any other documents which you think may help your case, send copies of these too.

As papers will be photocopied, please lodge only A4 size documents. Please do not staple, tab documents, or bind the pages together. Please ensure that all documents are legible.

Do I have to send the appeal myself?

You must sign the Notice of Appeal form yourself. If you are appealing jointly with another person, you must both sign the form. If you have a representative who is helping you, you should give their name and address on the notice of appeal form (section 3). We will then send all letters and papers to that person, unless you ask for us to send them to you instead. The tribunal will not send papers to both you and your representative. Do not name someone as your representative unless they have agreed to be your representative. You must let us know in writing if you change your mind about having a representative later, or if you change your representative. Your representative cannot sign the form for you.

What if I have special needs?

If you have special needs, let us know as soon as possible. If, for example, you need a signer or interpreter at the hearing, or need special arrangements to be made for you to come to the hearing, let us know and we will make the arrangements. We will pay for these special arrangements.

How long will my appeal take altogether?

You should have the tribunal's decision between four and five months (five and six months if August is included) after the date when we register your appeal. (See the timetable on page 25).

The Next Steps

What happens when I send in my appeal?

When we receive your notice of appeal, we will first of all decide whether the tribunal can hear your appeal, see page 7 – what you can appeal about.

If we cannot, we will write to tell you within 10 working days and give you the chance to send us more information or details. If your appeal is late and you have not given reasons, we will give you a chance to explain why it was late and ask us to register it.

If we can, we will register your appeal within 10 working days. We will send the Education Authority copies of all the papers you have sent.

What if we need more information?

If you have not provided enough reasons to allow the Education Authority to respond to your appeal, we will write and tell you to provide these. You will normally have 10 working days to reply. Your reply will be treated as part of your appeal and we will send a copy to the Education Authority. (Regulation 8 of the Tribunal Regulations applies.)

When we send your appeal to the Education Authority, we will write to you as well.

What happens once the appeal is registered?

The Education Authority must reply to the Tribunal and say if it is going to oppose your appeal. If they say that they do they must send us their reasons for doing so (this is their case statement) and any evidence they want to refer to. They must do this within 30 working days.

You also have the same 30 day period to send us any further information. This can be an expansion of your reasons for appeal (your case statement) and/or any further evidence you want to rely on.

What should I include in my case statement?

Once we have registered your appeal, we will send you some guidance to help you prepare your case. Your case statement should include anything you feel you have not included in your original appeal. You can also include any up-to-date information you have received since you sent us your appeal, and attach any further written reports you have. However, if you feel that you have provided as much as you can with your appeal you do not need to send us a case statement.

What will the Education Authority do about my appeal?

The Education Authority will have the same deadline as you to send us a case statement and evidence. The Education Authority's case statement must say whether or not the Education Authority opposes your appeal and, if it does, the Education Authority must say why. The Education Authority should also say who is dealing with the appeal, provide a summary of the facts and let us know what your child thinks about the issues.

Child's View

Generally the Education Authority must find out children's views about their needs wherever possible. We ask the Education Authority for your child's views so that we can take account of these. You can also let us know your child's views in your case statement or evidence. Your child can also come to the hearing. (Regulation 13(2)(e) of the Tribunal Regulations applies.)

The Education Authority may contact you about your appeal. It may have looked at the evidence again and feel that it can provide some or all of what you want. During your appeal, you should continue to talk to the Education Authority whenever possible. The Education Authority should already have told you about the Dispute Avoidance and Resolution Service (DARS).

The Education Authority may also apply to strike out your appeal if they believe your appeal is not valid. If this happens, we will send a copy of the application to you so you can comment on it. You may also request an opportunity to explain to the Tribunal why you believe your appeal should continue – the Education Authority would also attend such a hearing to explain its position. (Regulation 53 of the Tribunal Regulations applies.)

What will happen if the Education Authority does not oppose the appeal?

If the Education Authority does not oppose your appeal there are different outcomes depending on the type of appeal.

If you appeal against the Education Authority's decision not to:

- carry out a statutory assessment (or reassessment if your child already has a statement);
- make a statement of special educational needs; or
- change the school named in the statement;

and the Education Authority tells us that it does not oppose the appeal, (that is, it agrees to provide what you have asked for), we will treat the appeal as decided in your favour. The Education Authority will have a fixed period (see page 23) in which to provide what you have asked for. In these cases we will write to you and tell you that the Education Authority has conceded and that the appeal has now ended.

In all other cases if the Education Authority does not oppose the appeal we will write to you and advise what you should do next.

What if the Education Authority does not reply?

If the Education Authority does not send a reply by the end of the case statement period, it cannot take any further part in the appeal.

We will pass your appeal to a tribunal who will see if they can decide your appeal on the basis of the papers you have sent, or whether there needs to be a hearing. If they decide that a hearing is needed, you will be invited, but the Education Authority will not be invited.

What happens to the case statements?

Once the case statement period has finished we will prepare an indexed copy of all the papers we have received including the Education Authority's case statement and evidence and your case statement (if you send us one) and any further evidence you submit. The Tribunal will send these out to you and the Education Authority as soon as possible following the end of the case statement period.

Can I comment on the Education Authority's case statement?

You will not be able to send in written comments on the Education Authority's case statement, and the Education Authority cannot comment on yours. You will have the chance at the hearing to comment and ask questions about the Education Authority's case statement and any other evidence it has provided.

Can I send in any more documents to support my appeal?

You can only send in documents with your Notice of Appeal or during the case statement period. If you have evidence that was not available, and could not reasonably have been available at the end of the case statement period, it will normally be accepted if you send it to the Education Authority and to us. The Tribunal and the Education Authority must receive it at least five working days before the date of the hearing (Regulation 43(1) and (2) of the Tribunal Regulations applies).

Can I bring new evidence to the hearing?

The Tribunal may allow extra written evidence at the hearing if we think there are special circumstances. You must ask permission to present additional evidence on the day of the hearing. It will be helpful if you bring six copies with you to the hearing (one for each panel member, one for the Education Authority and one for us) as well as one for yourself. The tribunal can only accept more evidence in exceptional circumstances. (Regulation 43(3) of the Tribunal Regulations applies.)

What if the Education Authority has more evidence?

The rules about late evidence are the same for the Education Authority as they are for you.

What if I find it difficult to get hold of a document which is important to my case?

If you have difficulty obtaining a document for your case please contact the Tribunal Secretariat for advice on (028) 9072 4886 or (028) 9072 4847.

Can I withdraw my appeal?

You can withdraw your appeal at the hearing by telling the Chairman that you want to, or at any other time by writing to the Secretary of the Tribunal. You can send us a letter or use a withdrawal form, which we can send to you. Every person who signed the Notice of Appeal form must sign the withdrawal form. (Regulation 10 of the Tribunal Regulations applies.)

What will happen to my appeal if I move to live in another Education Authority region?

You should write and tell us if you move to live in another Education Authority region. We will write to the new Education Authority to tell it about the appeal. The new Education Authority will be treated as having made the decision against which you are appealing. We will give the new Education Authority 30 working days to send us a case statement and evidence. We will give you the same deadline to make or change your case statement and send in any more evidence. The old Education Authority will take no further part in your appeal. (Regulation 61 of the Tribunal Regulations applies.)

The Hearing

Arrangements for the hearing

Who will hear my case?

A tribunal panel is made up of three members. One is a lawyer who will chair the hearing. The other two members have knowledge and experience of special educational needs.

How much notice will I have of my hearing?

We will write to you at least 10 working days before the hearing to confirm the date, time and place. (Regulation 38 of the Tribunal Regulations applies.)

When do I need to say who my witnesses are?

When we list the case for hearing we will send you a form to fill in to provide details of who you will be bringing to the hearing. If you do not give us this information by the time we ask you to return the form your representative or witnesses may be prevented from coming to the hearing. If you cannot tell us who you will be bringing to the hearing by that date please let us know and we may be able to give you more time. If you change your representative or witnesses, and you have returned your attendance form or given us these details already, you should tell us about the changes as soon as possible in writing.

Where and when will my hearing be held?

Hearings will usually be held centrally at the Tribunal Hearing Centre in Belfast. If you have difficulty in travelling to Belfast please speak to the Tribunal Secretariat on (028) 9072 4886 or (028) 9072 4847. Hearings will almost always be in private and will usually take place during normal working hours. We normally have one hearing per day and it starts at 10.00 am.

Attendance at the hearing

Which parents can go to the hearing?

Anyone who has parental responsibility for the child can go to the hearing. If a parent whose name is not on the appeal form comes to the hearing, we may allow him or her to give their views at the hearing.

Can my child go to the hearing?

Your child may go to the hearing to give his or her views. However, it is unlikely that the Chairman will agree to your child staying for the whole hearing. So if you decide to bring your child, you should arrange for a friend or relative to come along to look after him or her.

Do I have to go to the hearing?

You do not have to go to the hearing if you do not want to. However, the tribunal will want to hear anything you have to say, and may want to ask you questions about the information you have provided in your documents. You may want to ask questions yourself. You may find it useful to make notes about any points you want to make, and bring these with you on the day.

If you decide not to go to the hearing and not to send a representative, you must tell us on the Attendance Form. In this case, you can send a letter to support your appeal but it must arrive at the tribunal office at least five working days before the hearing.

Can I have a representative at the hearing?

Yes, you can have a representative or person to help you present your case at the hearing, even if you do not go yourself. This does not have to be a solicitor. It could be someone from a voluntary organisation. The person who helps you present your case at the hearing does not have to be the same person who assisted you with the preparation of your case up to the hearing. If you bring a representative, you must give their name and address on the Attendance Form we send you. If you decide to bring or send a representative after you have returned the Attendance Form, you must write to us separately to tell us so.

Can my representative be a lawyer?

Neither you nor the Education Authority are required to employ a legal representative, but you may do so if you wish.

Will I have to answer questions at the hearing myself?

Even if you bring a representative to speak for you about your reasons for appealing and to help you put your point of view, the tribunal members may still want to ask you some questions. For example, they may want to ask questions about your child's needs at home. You do not have to answer these questions if you do not want to.

What should I do if I need an interpreter or signer?

If you need an interpreter or signer, please tell us as soon as possible. We can arrange for one to be at the hearing. We will pay for this.

Can I bring anyone else to support my case?

You can have up to two witnesses at the hearing. You must give their details on the Attendance Form. In exceptional circumstances the President of the tribunal may give you (and the Education Authority) permission to bring more than two witnesses. You must ask for his permission in writing or on your Attendance Form, well before the date of the hearing, explaining why you think you need more than two witnesses.

If it is impossible to write to us before the hearing, you can ask the Chairman of the tribunal at the start of the hearing. The Education Authority will also be able to do this. The Chairman will only allow a third witness in exceptional circumstances.

You can also bring two other people with you for support but they will not be able to take part in the hearing. You must tell us who they are on the Attendance Form. The President may not agree to allow everyone you name to go to the hearing.

What if a witness refuses to go to the hearing?

If someone you have asked to be a witness is unhappy about going, and they live in Northern Ireland you can write to the President of the Tribunal explaining why you feel it is important that the person goes to the hearing, and why you think their evidence is relevant. You should write to us as soon as possible if you want to ask for a witness summons and provide us with their name, job title and address. We will need at least 8 working days before the hearing to handle your request. (Regulation 36 of the Tribunal Regulations applies.)

If the President agrees, we will send you a witness summons for you to give to the person. That person must then go to the hearing, unless there are strong reasons why they cannot.

Who will be at the hearing?

Regulation 40 of the Tribunal Regulations states that the following people can be there:

- you, and possibly your child;
- any other parent of the child who wants to come;
- your representative, if you have one;
- your witnesses, if you have any;
- anyone else you want to be there, up to two, who will not be taking part in the hearing;
- the Education Authority's representative;
- the Education Authority's witnesses, if there are any;
- the three members of the tribunal panel;
- the tribunal clerk – who will show you where to go and give you any help you may need; and
- any interpreters or signers, if these are necessary.

There may also be an observer.

What happens when I get to the hearing?

When you get to the hearing, the clerk will show you to a waiting area, explain what will happen, where things are and answer any questions you may have. When the panel is ready, the clerk will take you into the tribunal room. In most cases everyone taking part will sit around a table. The Chairman will explain the procedures to you before the hearing begins.

What will happen during the hearing?

The members of the tribunal will want to find out the following from you and the Education Authority.

- What do you think are the relevant facts?
- What conclusions do you think the tribunal should come to?
- What do you think should now be done for your child?

The tribunal Chairman will try to make things as straightforward as possible so that everyone can give their point of view. The tribunal members will ask questions without using legal or educational jargon. If their questions are not clear, you can ask them to explain what they mean before you answer. The Chairman will suggest that they deal with different parts of the case, one at a time. You will not have to make a statement about the whole of the case. This will give everyone the chance to consider the points as they come up.

How will my witnesses give evidence?

The hearing is an informal discussion and witnesses will be able to comment on points that are raised. There is no witness box and everyone sits round a table, with the tribunal panel on one side and the parties with their representatives and witnesses sitting around the other three sides.

Will I be able to ask my own questions?

Yes, you will be given the chance to add anything you feel is important but which has not been mentioned. If you make a list beforehand of the points you would like the tribunal to consider, you can tick them off as they are discussed. At the end of the hearing, you can bring up any which were left out.

After the hearing the chairman will tell you that you will receive the tribunal's decision by post.

How long will the hearing last?

The hearing will normally last between half a day and a full day. There will usually be a short break in the morning and in the afternoon, as well as a lunch break. If you need other breaks, you can ask the Chairman. It would be very unusual for a case to last longer than a full day.

Very occasionally, the tribunal members need more evidence. If this is the case, the Chairman will explain what the tribunal needs, and will ask you to come back another day. This will give you or the Education Authority time to produce this. (Regulation 45 of the Tribunal Regulations applies.)

What expenses can I claim?

You will be able to claim travel expenses for you and your child if he or she goes to the hearing. If you bring a friend or relative to look after your child, you will be able to claim travel expenses for them as well. These will normally be at public transport rates. If you have particular needs, please tell us in advance. We cannot pay car parking costs.

What expenses can my witnesses claim?

Your two main witnesses will also be able to claim travel expenses on the same basis. A fixed amount is payable for any loss of earnings by witnesses.

What expenses can my representative claim?

Your representative, if you have one, will not be able to claim any expenses from us.

How do I claim my expenses?

At the hearing the clerk will give you and your witnesses an expenses claim form if requested. We will pay your expenses straight into your bank account. If you do not have a bank account please let us know.

The Tribunal's Decision

How will the tribunal come to a decision?

The tribunal makes its decision by considering all the evidence. This includes the documents which you and the Education Authority send before the hearing, as well as what is said at the hearing.

How soon will I know the tribunal's decision?

We aim to post the tribunal's decision and the reasons for that decision to you and to the Education Authority within 15 working days of the hearing. Some cases need a little more time before we can send out the decision. We will not tell you (or the Education Authority) the tribunal's decision over the phone.

Can I ask the tribunal to reconsider?

The tribunal's decision is final as far as the facts of the case are concerned. You and the Education Authority can ask the tribunal to review its decision if you think there is a problem with the decision or the way it was made.

The grounds for requesting a review are:

- the tribunal decision was wrongly made as a result of an error on the part of the tribunal staff;
- a party, who was entitled to be heard at the hearing but failed to appear or be represented, had good and sufficient reason for failing to appear;
- there was an obvious error in that decision; or
- the interests of justice require.

The tribunal must receive your request within 10 working days of the date the decision was issued. That request must give all your reasons in full and state which ground or grounds listed above the application is being made under. (Regulation 47(1) and (2) of the Tribunal Regulations applies.) A review does not replace an appeal to the High Court.

If you ask for a review, the tribunal that heard the appeal will consider this. The tribunal may dismiss your request without a hearing if it is not convinced by your written application. (Regulation 47(3) of the Tribunal Regulations applies.)

What will happen if you accept my request?

If we accept that you have shown that there may be a problem, either with the decision or with the way we reached it, we will hold a hearing to consider your request.

If we then agree that we should review the decision, we will reconsider evidence about the parts of the appeal affected by your request. Both you and the Education Authority will have an opportunity to go to a review hearing if we decide to hold a hearing to review all or part of the decision. (Regulation 47(6) of the Tribunal Regulations applies.)

Is there any appeal against the tribunal's decision to the High Court?

The tribunal's decision is final as far as the facts of the case are concerned. Both you and the Education Authority may ask the tribunal to state and sign a case for the opinion of the High Court if you consider that the tribunal's decision is wrong on a point of law. You should seek legal advice from a solicitor about asking the tribunal to state and sign a case for the High Court. A time limit applies with regard to submitting a request for the tribunal to state and sign a case for the High Court, so you should seek such legal advice without delay. (Article 24 of the 1996 Order applies.)

How long does the Education Authority have to put in place your decision?

When we have decided on your appeal, unless there is a request for a review or a request for the tribunal to state and sign a case for the opinion of the High Court, the Education Authority must follow the decision within a fixed period, beginning with the date we issued the decision. Depending on the type of appeal, the Education Authority should follow the timescales below (Regulation 23 of the Education (Special Educational Needs) Regulations (Northern Ireland) 2005 applies):

- | | |
|---|-------------|
| • To start the assessment or reassessment process | 4 weeks |
| • To make a statement | 5 weeks |
| • To change a statement | 5 weeks |
| • To change the school named in line with parents' wishes | 2 weeks |
| • To continue a statement | immediately |
| • To cancel (cease to maintain) a statement | immediately |

These timescales also apply when the Education Authority tells us that it doesn't oppose the appeal (see page 14).

What if the Education Authority doesn't carry out the tribunal's decision?

By law, the Education Authority must carry out the tribunal's decision. If you think that the Education Authority has not done this within a reasonable time, you can write to the Department of Education (the address is on page 26).

Will I have to pay any costs if I lose the appeal?

You and the Education Authority will not normally have to pay the other's costs. This would only happen in very rare circumstances, for example if the tribunal thought that either party had deliberately wasted its time.

Claims About Disability Discrimination

Is a claim about disability discrimination different from a special educational needs appeal?

Yes. Although we handle applications under both headings they are separate. This booklet only explains how you can appeal to us when the Education Authority has made a decision about your child's special educational needs.

If you think that your child has been discriminated against because of his or her disability, you may be able to make a claim to us against the organisation that is responsible for the school, or for the activity during which you feel there was discrimination.

How can I find out more about claims about disability discrimination?

Our booklet 'Disability Discrimination in Schools: How to make a claim' explains when you can make a claim. You can contact us on (028) 9072 4886 or (028) 9072 4847 for a copy.

How do I make a claim about disability discrimination?

Our booklet explains how to make a claim and includes a form you can use.

Can I combine a claim about disability discrimination and an appeal about special educational needs?

Some parents find that both options are open to them. You may find, for example, that you are able to appeal against the Education Authority's decision not to carry out a statutory assessment and also that a situation arose which may be considered discrimination. Unfortunately, we are not able to give specific examples. If that applies to you, you can apply to us under both headings. In such a case, it is often possible for us to hold a single hearing to deal with both matters.

You will need to fill in two forms – the one in this booklet and another from the 'Disability Discrimination in Schools: How to make a claim', booklet. If you want us to combine the claims, there is a box on the appeal form that you can tick. Whether we can bring them together at one hearing will depend on the circumstances.

Timetable from Making An Appeal to Getting The Tribunal's Decision

The timetable below shows the number of working days an action takes. Working days do not include Saturdays, Sundays, any day from 25 December to 1 January (both dates inclusive), bank holidays, or any day in August.

- You make an appeal and the tribunal office decides whether the tribunal can deal with the appeal.
- If the tribunal cannot deal with the appeal, the tribunal office aims to tell you in writing within 10 working days.
- If we need more information before we can make a decision about registering your appeal, we will write and ask you to send this information. You will normally have 10 working days to reply.
- If the tribunal can deal with the appeal, the tribunal office registers the appeal and sends the Education Authority a copy of the appeal within 10 working days and tells you at the same time.
- If you have not given the Education Authority enough reasons to respond to your appeal we will write and ask you to provide full reasons. You will normally have 10 working days to reply. When we receive your reply we will pass it to the Education Authority.
- The Education Authority must, and you may, provide a 'case statement' (see page 13) and any more evidence within 30 working days from the date of the appeal being registered.
- At the end of the case statement period, we will write to let you know the place and date of the hearing. Both you and the Education Authority must return a completed attendance form by the date requested in the letter, or at a later date if we agree to give you more time.
- At the end of the case statement period, we will send you a copy of the Education Authority's case statement and evidence, and the Education Authority a copy of your case statement and any other evidence.
- The tribunal office normally confirms the date and place of the hearing at least 10 working days beforehand.
- The tribunal office aims to send a written decision to you and the Education Authority within 15 working days after the hearing.

You and the Education Authority can ask us to increase a time limit. To do so, you must write to us giving your reasons. (Regulation 60 of the Tribunal Regulations apply.)

Other Publications

Special Educational Needs: A Guide for Parents

Code of Practice on the Identification and Assessment of Special Educational Needs

Supplement to the Code of Practice on the Identification and Assessment of Special Educational Needs

Available from:

Special Education Branch
The Department of Education
Rathgael House
Balloo Road
Bangor, Co Down
BT19 7PR

Telephone: 028 9127 9465

Legal Aid? A Northern Ireland Guide

Available from your local Citizens Advice Bureau

Voluntary Organisations

We have prepared this list in the belief that it will be useful to interested parties. We do not, however, accept liability for any inaccuracies in the list.

Afasic

Cranogue House
19 Derrycourtney Road
Caledon
County Tyrone
BT68 4UF

Phone: 028 3756 9611

Website: www.afasicnorthernireland.org.uk

Autism Northern Ireland

Donard
Knockbracken Healthcare Park
Saintfield Road
Belfast
BT8 8BH

Phone: 028 9040 1729

Fax: 028 9040 3467

Email: info@autismni.org

Website: www.autismni.org

Cedar Foundation

Malcolm Sinclair House
31 Ulsterville Avenue
Belfast
BT9 7AS

Phone: 028 9066 6188

Email: info@cedar-foundation.org

Website: www.cedar-foundation.org

Children's Law Centre

2nd Floor
127-131 Ormeau Road
Belfast
BT7 1SH

Phone: 028 9024 5704

Fax: 028 9024 5679

Email: info@childrenslawcentre.org

Website: www.childrenslawcentre.org

Contact a Family Northern Ireland

Bridge Community Centre
50 Railway Street
Lisburn
Co Antrim
BT28 1XP

Phone: 028 9262 7552

Email: nireland.office@cafamily.org.uk

Website: www.cafamily.org.uk

Cystic Fibrosis Trust

Linda Alexander
Regional Fundraising Manager
PO Box 234
Newtownards
BT23 9BD

Phone: 0300 373 1021

Mobile: 07841 996 586

Email: lalexander@cftrust.org.uk

Website: www.cftrust.org.uk

Disability Action

Portside Business Park
189 Airport Road West
Belfast
BT3 9ED

Phone: 028 9029 7880
Textphone: 028 9029 7882
Fax: 028 9029 7881
Email: hq@disabilityaction.org
Website: www.disabilityaction.org

Down's Syndrome Association

Unit 2
Marlborough House
348 Lisburn Road
Belfast
BT9 6GH

Phone: 028 9066 5260
Fax: 028 9066 7674
Email: enquiriesni@downs-syndrome.org.uk
Website: www.downs-syndrome.org.uk

MENCAP

Segal House
4 Annadale Avenue
Belfast
BT7 3JH

Phone: 028 9069 1351
Email: helpline.ni@mencap.org.uk
Website: www.mencap.org.uk

National Deaf Children's Society

Wilton House
5 College Square North
Belfast
BT1 6AR

Phone: 028 9031 3170
Fax: 028 9027 8205
Minicom: 028 9027 8177
Email: nioffice@ndcs.org.uk
Website: www.ndcs.org.uk

Northern Ireland Dyslexia Association

17a Upper Newtownards Road
Belfast
BT4 3HT

Phone: 028 9065 9212
Email: help@nida.org.uk
Website: www.nida.org.uk

Northern Ireland M E Association

28 Bedford Street
Belfast
BT2 7FE

Phone: 028 9043 9831
Fax: 028 9043 9831
Email: jo@nimea.org
Website: www.nimea.org

PEAT (Parents Education as Autism Therapists)

c/o Upper Springfield Development Co Ltd
689 Springfield Road
Belfast
BT12 7FP

Phone: 028 9032 4882
Email: info@peatni.org
Website: www.peatni.org

RNIB (Royal National Institute for the Blind)

40 Linenhall Street
Belfast
BT2 8BA

Phone: 028 9032 9373
Fax: 028 9027 8119
Email: rnibni@rnib.org.uk
Website: www.rnib.org.uk

RNID (Royal National Institute for Deaf People)

Wilton House
5 College Square North
Belfast
BT1 6AR

Phone: 028 9023 9619
Textphone: 028 9023 9619
Fax: 028 9031 2032
Website: www.actiononhearingloss.org.uk

SENAC (Special Educational Needs Advice Centre)

Graham House
Knockbracken Healthcare Park
Saintfield Road
Belfast
BT8 8BH

Phone: 028 9079 5779
Fax: 028 9070 5633
Email: info@senac.co.uk
Website: www.senac.co.uk

SENSE Northern Ireland

11 The Coaches
Brown Brae
Croft Road
Holywood
Co Down
BT18 0LE

Phone: 028 9042 1475
Email: murielmathers@btinternet.com
Website: www.sense.org.uk

Shine Charity

PO Box 132
Cushendall
BT44 0WA

Phone: 01733 555988 (local rate)
Website: www.shinecharity.org.uk

Stroke Association Northern Ireland

Rushmere House
46 Cadogan Park
Belfast
BT9 6HH

Phone: 028 9050 8020
Fax: 028 9066 0720
Email: northernireland@stroke.org.uk
Website: www.stroke.org.uk

National Autistic Society Northern Ireland

Autism Centre
Eastbank House
Eastbank Road
Carrduff
CASTLEREAGH
BT8 8BD

Phone: 028 9068 7066
Fax: 028 9068 8518
Email: northern.ireland@nas.org.uk
Website: www.autism.org.uk

Notes

Should you require any further information about the NI Courts and Tribunals Service please visit our website at www.justice-ni.gov.uk/courts-and-tribunals or alternatively contact our Communications Group.

