



HM Courts &
Tribunals Service



If you are not happy with a decision about Special Educational Needs (SEN)



EasyRead version of:
How to appeal a SEN decision.
SEND37.



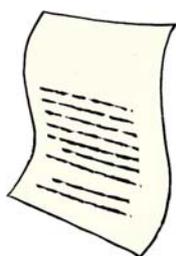
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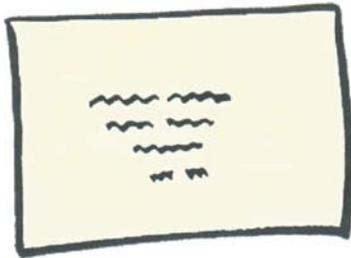


What the words mean

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Some words are in **bold**.

There is a list of what they mean on the last page.



Some useful organisations

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About this guide



HM Courts and Tribunals Service wrote this leaflet. We are part of the **Ministry of Justice**.



We make sure courts and **tribunals** work well and treat everyone fairly. A **tribunal** is a special court that looks at a problem or disagreement.



Usually a **tribunal** will hold a **hearing** to decide about your **case**.



The **SEND Tribunal** hears cases about:

- decisions local councils make about children and young people with **special educational needs and disabilities**



- a school that **discriminates** against a disabled child or young person.



This guide is about how to **appeal** to the **SEND Tribunal**.

You will need to download the right form from the website Court and Tribunal Forms for:



- **appeals** against a decision not to carry out an Education, Health and Care (EHC) assessment



- **appeals** against any other local council decision.

How to contact the SEND tribunal



Telephone:
01325 289350



Email:
send@justice.gov.uk



Write to:
**First-tier Tribunal Special Educational
Needs and Disability
1st Floor Darlington Magistrates' Court
Parkgate
Darlington
DL1 1RU**

Section 1. Making an appeal



When to appeal

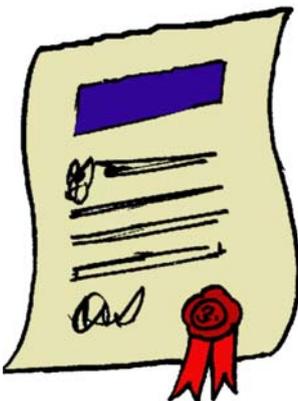
You must **appeal** to the **SEND Tribunal** within 2 months of the date on the letter telling you the council's final decision.



You can ask for more time if you have a good reason.

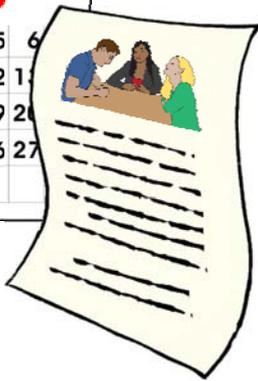


You should think about **mediation** before you **appeal**. This is when someone independent tries to help you and the council sort things out.



Even if you do not use **mediation**, in most cases, you will need a certificate from a **mediation** service before you **appeal**. You must ask for this within 2 months of the date on your letter from the council.

Days						
1	2	3	4	5	6	
8	9	10	11	12	13	
15	16	17	18	19	20	
22	23	24	25	26	27	
29	30	31				



You have 30 days after the date on the **mediation** letter to appeal to the **SEND Tribunal**.

What you can appeal about

You can **appeal** if your local council:



- refuses an **EHC assessment** when a child, young person, their parents or their school or college ask for it



- does the **assessment** but will not give the child or young person an **EHC Plan**



- does not support the **EHC Plan** or change it when the child's or young person's needs change



- has written or changed the **EHC Plan** and you disagree with what it says in these parts of the plan: Section B, Section F or Section I.

Things the SEND Tribunal cannot decide

The **SEND Tribunal** cannot look at problems with:



- how the council did the **assessment** or how long they took



- how the council, school or college give your child or a young person the support the **EHC plan** says they need



- section E of the **EHC plan** that says how things should turn out for them if your child or a young person gets this support



- **appeals** if your child or a young person cannot go to the school/college you or the young person want and they don't have SEN or a disability

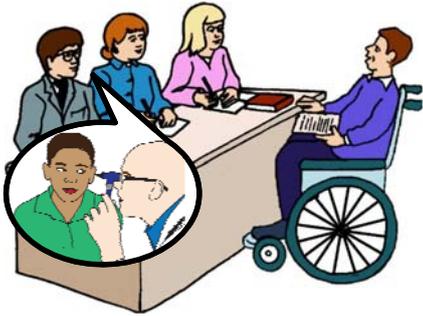


- **appeals** if your child is **excluded** (not allowed to go to school), unless you think this is discrimination because of their disability.



- the way the council writes something in these parts of your **EHC plan** A, J or K. You can ask the council to look at the plan again and change how they write something.

The National Trial



The **SEND Tribunal** is taking part in a trial in which the **Tribunal** can make suggestions on the health and care parts of an **EHC plan**.



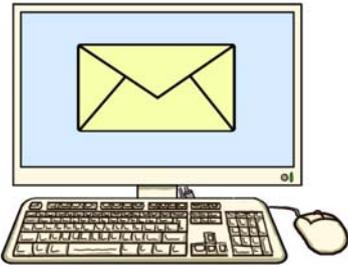
The **Tribunal** can only deal with applications for recommendations when there is an appeal against the education part of the **EHC plan**.

April 2018						
Mon	Tue	Wed	Thu	Fri	Sat	Sun
30						1
2	3	4	5	6	7	8
9		11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

The trial started on 3 April 2018 and lasts at least 2 years. If you are unhappy with something the **Tribunal** cannot deal with, talk to your council, school or college first.



If you are still not happy, you can complain to the Secretary of State for Education.



Email:
SEN.IMPLEMENTATION@education.gov.uk



If they agree with you, they could ask the council, school or college to put things right.



You might also be able to complain to the **Local Government Ombudsman**. They are independent and deal with some complaints about councils and public services.



Write to:
Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH



Telephone:
0845 602 1938



Website:
www.lgo.org.uk

Deciding whether to appeal



This guide tells you how to **appeal** but cannot say whether you will win or lose. Your council will tell you about groups that can help.



The council should also say which member of their staff will look at the things you are unhappy with.

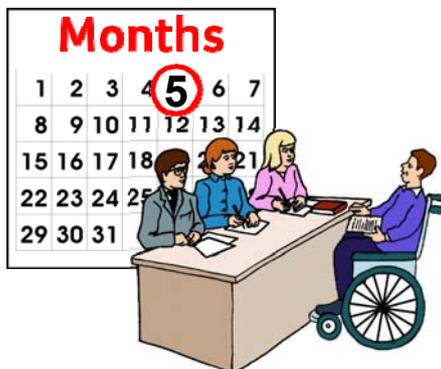


The person may tell you about an independent **representative** who could help with your **appeal**.

About the tribunal



The **SEND Tribunal** is free and you can claim money to pay for your travel to a **hearing**.



An **appeal** can take up to 5 months. Usually, you will only go to one **hearing** but sometimes, in difficult cases, the **tribunal** needs to meet again or talk about your case in a telephone hearing.



You might need to collect **evidence** to prove why you think the school or council is wrong.



Some people can get money to help pay a **solicitor** for help with this. The Law Society or Citizens Advice can tell you more about this.

Section 2. Starting an appeal



When to appeal

Post your **appeal** form to the **SEND Tribunal**, they must get it within 2 months of the date on the letter with the council's decision.



If your **appeal** is late you can ask the **Tribunal** for more time if you post your **appeal** form as soon as possible and say:

- why it is late



- why you think the **appeal** should go ahead



- why it will not affect the council if the **appeal** is late



- why you cannot wait for your child's next review or assessment



- anything else you think is important.

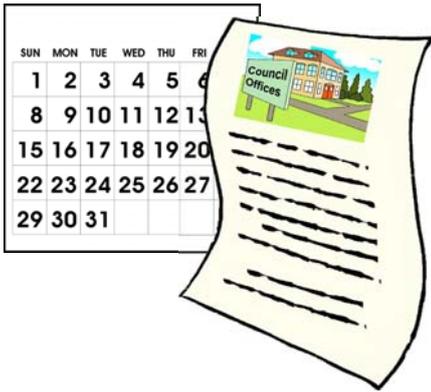


The **tribunal** judge will decide if it is fair for you to **appeal** late. If the judge refuses then the **appeal** stops.



You might get permission to **appeal** to the Upper Tribunal against the decision to refuse to accept the late appeal, but only if the **tribunal** made a mistake in law.

Why you want to appeal to the SEND Tribunal



When you **appeal** you must tell us the date of the letter from the council and which of the decisions you disagree with.



You cannot just say you disagree with the decision.

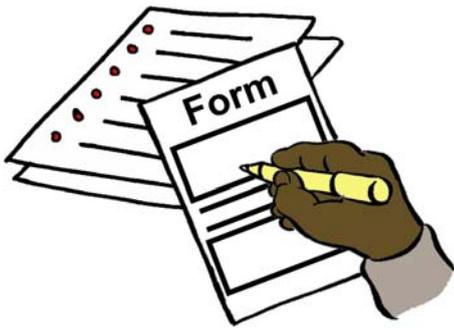


You do not have to write a lot but it is important to explain the **grounds** of your **appeal**. This means:

- why you think the decision is wrong



- what you want the **SEND Tribunal** to do.



If you have any **evidence** send it in with your form.



The appeal form

Someone else can fill the form in, but everyone who is making the **appeal**, must sign it.



You can ask us to send any letters to your **representative** or to another person making the **appeal**. This means we will not send them to you.



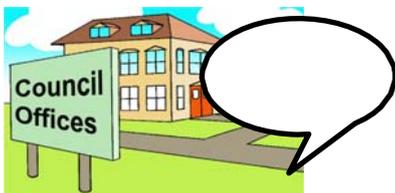
You must put the right information on each part of the form.



Section 1. Your child – or the young person who the appeal is about.



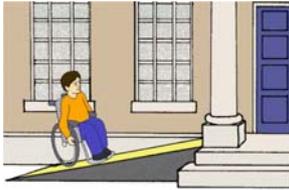
Section 2. What you are appealing against – this is where you explain why you are **appealing**.



Section 3. Your appeal – the decision you are **appealing** against.



Section 4. Your contact details – and contact details for your representative if you have one.



Section 5. Special requirements – any support you need with the **appeal** form or **hearing**.



Section 6. Claims about disability discrimination – say if you are already claiming for discrimination or if you want to know how to do this.



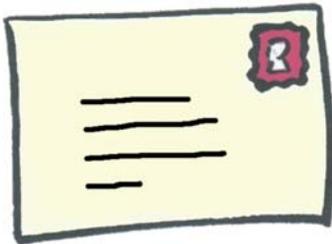
Section 7. Checklist – tick all the boxes to check you have all the information you need.



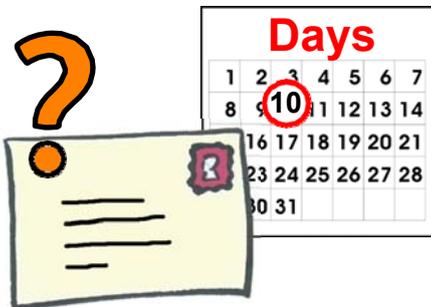
Section 8. Signatures – the **Tribunal** can only deal with your **appeal** if everyone signs the form.



Section 9. Sending the appeal – where to send your form.



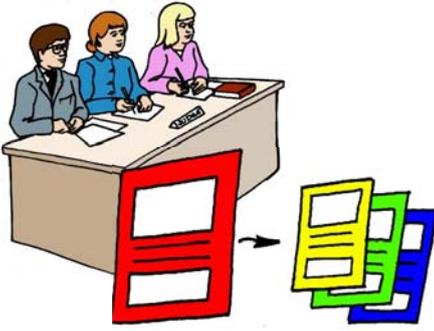
If anything is missing, the **Tribunal** will send the form back to you. They might not be able to look at your **appeal**.



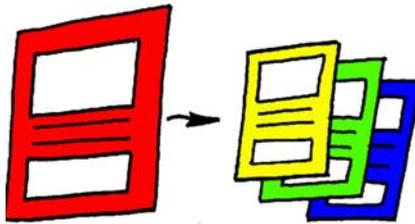
They will tell you what else you need to send them. You must send them in within 10 working days.



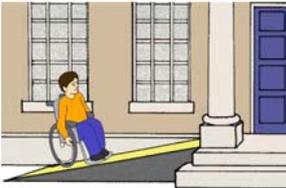
You can ask for more time. But if you send it back late and do not tell the **tribunal** why, your **appeal** will end.



You should send copies of papers to the **tribunal**, do not send the original documents.



But please only copy on one side of the paper.



Please tell us if you need extra help at court because of a disability. The tribunal staff will contact you about this.



Please also tell us if you need a foreign language interpreter.

Section 3. Before the hearing



After you send the appeal form

We will check your form to make sure your **appeal** meets the rules. We will do this in 10 working days.

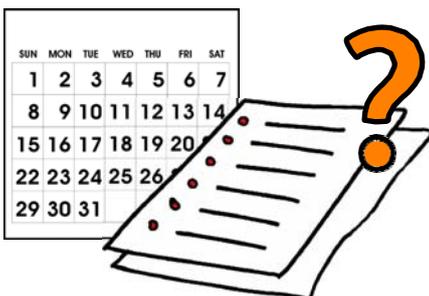


We will write to say we have your form and also:

- give you an **appeal** number to use if you talk to us about your case.



- tell you the fortnight when we will arrange your **hearing**



- tell you when you need to send the council and **Tribunal** information for the **hearing**



- give you other information about your **appeal**.

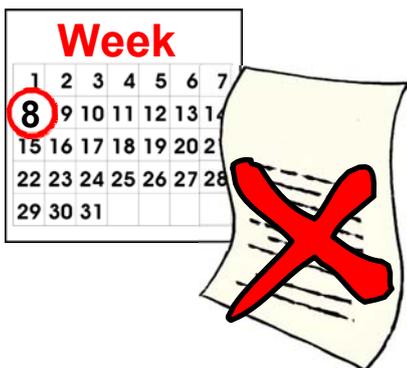


We will send a copy of your **appeal** to the council and ask them to reply. They should do this within 30 days.

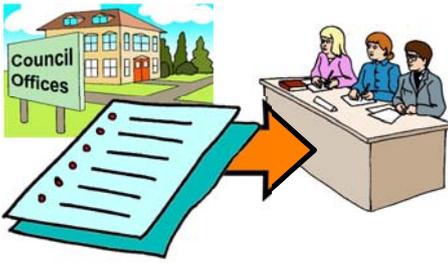
What the council will do with your appeal



The council will write to you and say if they agree with your **appeal**. They will send a copy to the **Tribunal**.



If this does not happen within 8 weeks of the **Tribunal** getting your **appeal**, please tell us in writing.



We will tell the council when to send their **evidence** and information to the **Tribunal**.



The council must tell the **Tribunal**:

- if they disagree with the **appeal** and why



- the facts they will use at the **hearing**



- what the child thinks about the decision, or why you could not find this out.



The council might want to talk to you about the **appeal** if they think they can sort things out without a **hearing**.



The council can apply to bring your **appeal** to an end if they think it is something the **Tribunal** cannot decide.



You will have the chance to say why you think this is wrong.

If the council agrees with your appeal



If the council agrees to change the **EHC Plan** you can stop the **appeal**.



If the council agrees to do anything else you asked for then the **appeal** ends. The council have a set time to do what they say they will.



If the council does not reply

If the council does not reply in time the **tribunal** will write to ask why.



A judge will look at their reply and can decide to stop the council being involved.

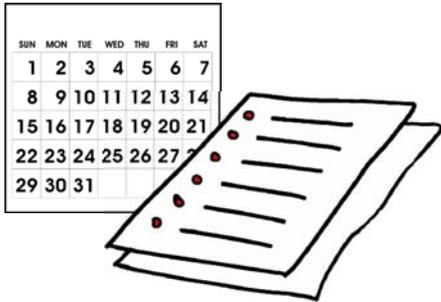


If this happens the **Tribunal** will either come to a decision using the papers or at a **hearing** without the council being there.



Evidence and information

Try to send all your evidence to the **SEND Tribunal** with your **appeal** form.



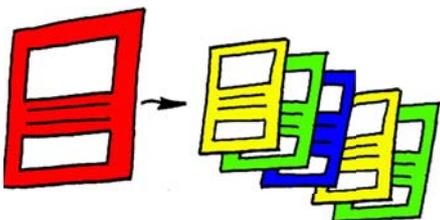
We tell you when you must send other **evidence** by.



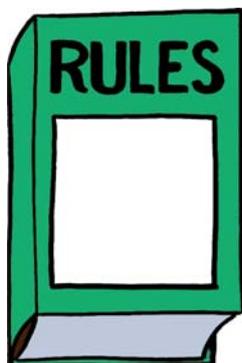
You must send copies of everything to the council as well.



Usually you cannot bring new **evidence** to the **hearing** unless there is a good reason and you have sent it to the council first.



You must bring 5 copies of the new **evidence** to give to the **tribunal** and other people at the **hearing**.



These rules are the same for you and the council.



If you cannot get information the **Tribunal** wants from another organisation, telephone the **tribunal** clerk to find out what to do.

People might talk about a **working document**.



This is a copy of the **EHC Plan** that you and the council use to show what changes you are asking the Tribunal to make.

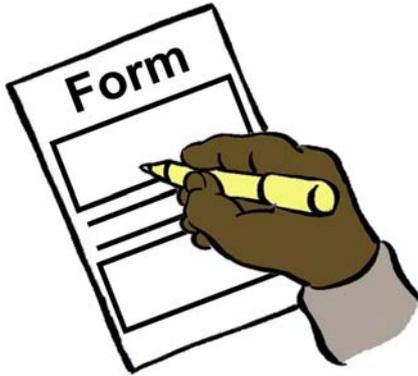


The **SEND Tribunal** will look at this at the **hearing** and use it to make their decision.

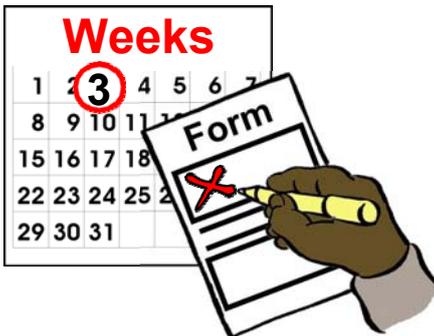
Changing your appeal



You can only change the reason for your **appeal** if the **SEND Tribunal** agrees.



You must fill in a form to say what changes you want to make and why, send it to the council and when you have their reply, send both the form and the reply to the Tribunal.



You must also fill in a form if you want to stop the **appeal**. You should do this at least 3 weeks before the **hearing**.



If it is later than this, a judge can say the **hearing** must go ahead so you can explain why you want to stop the **appeal**.



If you move to another area you must tell the **SEND Tribunal**. Your new council might take over your **appeal**.



Where the hearing will be

About 10 days before we will send the date and time of your **hearing** and tell you where it will be.

Days

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Sometimes we have to change things close to your **hearing** date. But we will try our best to let you know at least 2 days before.



3 weeks before the **hearing**, a **tribunal judge** or registrar will look at the **appeal** and decide if it is ready for a **hearing** or if more information is needed.



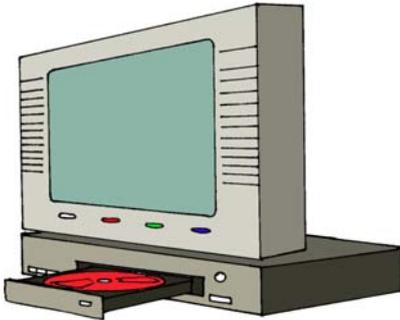
A judge can ask for a telephone **hearing** if they think it might be difficult to solve the problem using the papers they already have.

Section 4. The hearing

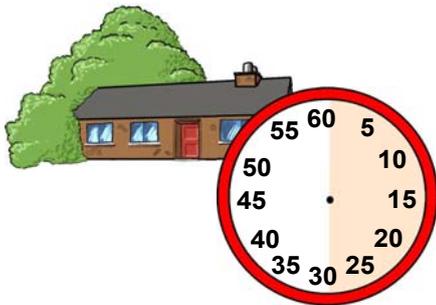
About the hearing



There is a film on YouTube that shows what happens at a hearing of a **special educational needs tribunal**. Type 'special educational needs tribunal hearing' into the search box.



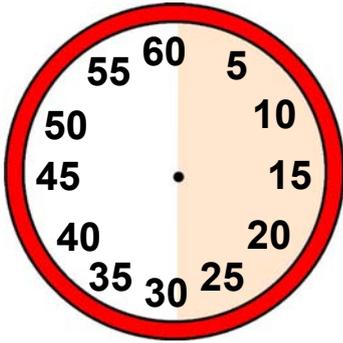
You can also ask the **SEND Tribunal** for a DVD.



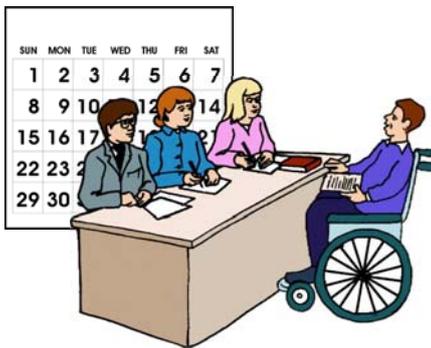
We try to make sure the **hearing** is less than an hour and a half away from your home.



Hearings can start at different times of the day. Check the letter carefully to see what time your **hearing** starts.



Please get there 30 minutes before it starts so you can find out what you need to do and ask any questions that you might have.



The **tribunal** might meet again if they need more time to look at things, they will arrange another date with you before you leave the **hearing**.



A judge will lead the **tribunal** and there will be one or two other people who know about children with special educational needs or disability or in a National Trial appeal, health and social care matters.



The judge will explain what will happen at the **hearing**.

Who can go to the hearing



You can agree to a **hearing** where you do not attend. If it helps if the **tribunal** hear what you think and ask questions, then the **Tribunal** will not agree to a **hearing** on the papers.



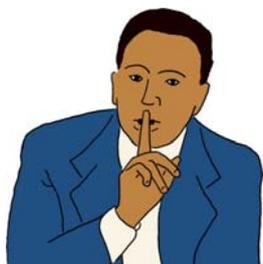
If you and the council agree, the **tribunal** can decide the **appeal** by looking at the papers. This means you do not need to go to the **hearing**. You can use the **appeal** form to say you want this or tell the **Tribunal** later.



Your child can come to the **hearing** and tell the **tribunal** what they think. You must ask someone to come and look after them when they are not in the hearing.



Both parents can come to the **hearing**. Even if you are not living together you should still tell them about the **appeal**. You can tell us if you do not want them at the **hearing**.

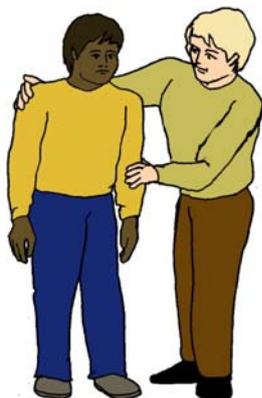


Representatives and supporters

All **SEND tribunal** hearings take place in private.



A **representative** can go to the **tribunal** with you or instead of you. Please tell us about this on the appeal form.



You can bring someone else to support you at the **hearing**. But they cannot speak or be involved. You must tell us who is coming and the **SEND Tribunal** can decide who can come into the **hearing**.



Witnesses

Please tell us if you want a **witness** to go to the **hearing**.



If you do not fill in the form to say who is coming the **tribunal** can decide to cancel the **hearing**.



You must ask us if you want to bring more than 3 **witnesses**.



If you want someone to be a **witness** but they will not come to the **hearing**, please let us know at least 15 days before the **hearing**. The **tribunal** can write and say the **witness** has to come if they agree with why you want them there.



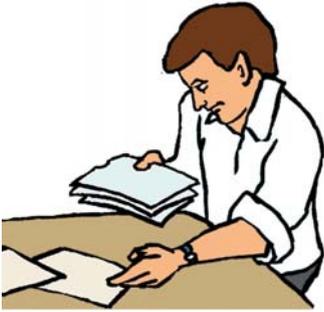
What happens at the hearing

A **tribunal** is like a court in some ways:

- the law says what rules it must keep to



- it is independent and not part of the government



- it looks at questions, facts and the law



- it listens to **evidence** and makes decisions



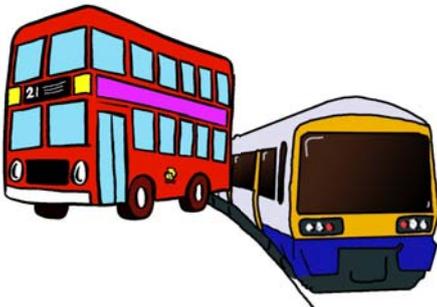
- it must be fair to everyone.



But a **tribunal** is more relaxed than a court

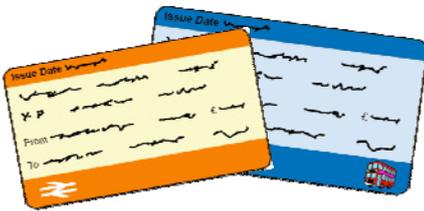


You will be able to ask the council and **witnesses** questions.

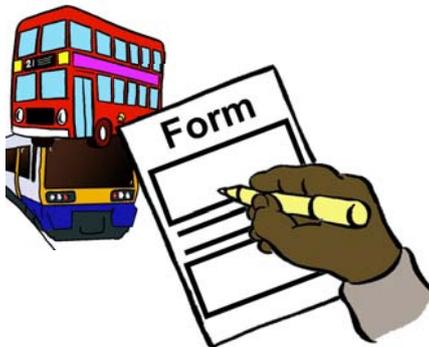


Money to pay for travel to the hearing

We will tell you about travel costs when we send you the date of your **hearing**.



Please keep all your tickets and receipts.



You and your **witness** can fill in a form after your **hearing** and we will pay the cost of public transport into your bank account. You can only claim taxi fares if we agree this first.



Please contact us:

Telephone:
01325 392760 or



Email:
sendistqueries@justice.gov.uk



Your **witness** can also claim loss of wages if their employer does not pay them while they are at the **hearing**.

Section 5. After the hearing



Telling you about the decision

The **tribunal** will write to tell you their decision and send a copy to the council. You should get this within 10 working days after the **hearing** has finished.



The council must do what the **SEND Tribunal** says within a set time. There are different times for different decisions.



If the council do not start when they should, you can ask the Secretary of State for Education or the High Court to make them do it.



Email:
SEN.IMPLEMENTATION@education.gov.uk



You can also complain to the **Local Government Ombudsman**. They are independent and deal with some complaints about councils and public services.



Write to:
Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH



Telephone:
0845 602 1938



Website:
www.lgo.org.uk



If you are not happy with the decision

When the **tribunal** writes to tell you their decision they will also say how to **appeal**.



You must write to us within 28 days of the decision. Tell us what you think was wrong and why you want a new decision.



If you do it later than this you must explain why. A judge can decide whether the **appeal** can go ahead although it is late.

What the words mean

Accessible

Easy to use or understand.

Appeal

Ask someone independent to look at a decision that you think is wrong.

Decision

A tribunal listens to all the evidence and then writes down what the council must do.

Discriminate

Treat someone worse than other people because of who they are.

Education, Health and Care (EHC) assessment

Find out what extra support a child or young person needs with their education, health and care.

EHC Plan

This plan says how a school or college must support a child or young person with special educational needs.

Evidence

Facts and information that prove whether something has happened or is required to happen.

Grounds

Your reasons for saying, doing or believing something.

Hearing

An official meeting that listens to the information and evidence and then decides on the facts and makes a decision.

Local Government Ombudsman

This is an independent organisation that deals with complaints about councils and public services. Usually when you are not happy with the way the organisation dealt with your complaint.

Mediation

When someone independent tries to help you and the council sort things out by meeting and talking.

Ministry of Justice

The part of the UK government department that manages the police, courts, probation service, prisons and other parts of the justice system.

Representative

Someone who speaks or acts for another person with their permission.

Solicitor

Someone who has training and qualifications in the law and can give advice and speak for you in some courts and in tribunals.

Special Educational Needs (SEN)

When a child or young person has a learning problem or disability that makes it more difficult for them to learn than other people who are the same age.

Tribunal

A special court that look at a problem or disagreement between a person and a government office.

Witness

Someone who has information or evidence to help the tribunal decide.

Some useful organisations



- **ACE Education**
36 Nicholay Road, London. N19
3EZ Telephone: 020 8407 5142
Website: www.ace-ed.org.uk



- **AFASIC**
20 Bowling Green Lane, London. EC1R
0BD Telephone: 0845 355 5577
Website: www.afasic.org.uk



- **British Deaf Association**
18 Leather Lane, London. EC1N
7SU Telephone: 020 7843 6000
Website: www.bda.org.uk



- **British Dyslexia Association**
Unit 8, Bracknell Beeches, Old Bracknell
Lane, Bracknell. RG12 7RW
Telephone: 0845 251 9002
Website: bdadyslexia.org.uk



- **Coram Children's Legal Centre** University of Essex,
Wivenhoe Park Colchester
CO4 3SQ Telephone: 08088
020 008 Website:
www.childrenslegalcentre.com



- **Council for Disabled Children**
National Childrens Bureau, 9 Wakley Street, London. EC1V 1JN
Telephone: 020 7843 6000
Website: www.ncb.org.uk
- **Council on Tribunals**
81 Chancery Lane, London. WC2A 1BQ
Telephone: 020 7855 5200
Website: www.council-on-tribunals.gov.uk



Department
for Education

- **Department for Education**
Sanctuary Buildings, Great Smith Street, London. SW1P 3BT
Telephone: 0370 000 2288
Website: www.education.gov.uk



 *Shaw Trust*
DLF is part of Shaw Trust

- **DIAL UK**
39-45 Cavell Street, London. E1 2BP
Telephone: 020 7791 9000
Website: www.dlf.org.uk



Equality and
Human Rights
Commission

- **Equality & Human Rights Commission**
Fleetbank House, 2-6 Salisbury Square, London. EC4Y 8J
Telephone: 0800 800 0082
Website: www.equalityhumanrights.com



- **Down's Syndrome Association**
Langdon Down Centre, 2a Langdon Park, Teddington, Middlesex. TW11 9PS
Telephone: 0333 1212 300
Website: www.down-syndrome.org.uk



- **Haemophilia Society**
1st Floor, Petershaw House, 57a Hatton Gardens, London. EC1N 8JG
Telephone: 0800 018 6068
Website: www.haemophilia.org.uk



- **Helen Arkell Dyslexia Centre**
Arkell Lane, Frensham, Farnham, Surrey. GU10 3BW
Telephone: 01252 792 400
Website: www.arkellcentre.org.uk



- **I CAN**
8 Wakely Street, London. EC1V 7QE
Telephone: 020 7843
Website: www.ican.org.uk



- **IPSEA**
24-26 Gold Street, Saffron Walden CB10 1EJ
Telephone: 0845 602 9579
Website: www.ipsea.org.uk



- **KIDS**
49 Mecklenburgh Square, London.
WC1N 2NY
Telephone: 020 7520 0405
Website: www.kids.org.uk



- **Mencap**
123 Golden Lane, London. EC1Y
0RT Telephone: 0808 808 1111
Website: www.mencap.org.uk



- **MIND**
15-19 Broadway, Stratford, London.
E15 4BQ
Telephone: 0300 123 3393
Website: www.mind.org.uk



- **National Autistic Society**
393 City Road, London. EC1V
1NG Telephone: 0808 800 4104
Website: www.nas.org.uk



- **National Blind Children's Society** Bradbury House, Market Street, Highbridge, Somerset.
TA9 3BW Telephone: 01278 765 765
Website: www.nbcs.org.uk



- **National Deaf Children's Society**
15 Dufferin Street, London. EC1Y 8UR
Telephone: 0808 800 8880
Website: www.ndcs.org.uk



- **National Parent Partnership**
8 Wakley Street, London. EC1V 7QE
Telephone: 020 7843 6058
Website: www.parentpartnership.org.uk



- **National Sensory Integration Partnership (NatSIP)** Website: www.natsip.org.uk



- **National Society for Epilepsy**
Chesham Lane, Chalfont St Peter, Buckinghamshire. SL9 0RJ
Telephone: 01494 601300
Website: www.epilepsysociety.org.uk



- **Network 81**
10 Boleyn Way, West Clacton, Essex. CO15 2NJ
Telephone: 0845 077 4055
Website: www.network81.org.uk



- **Parents for Inclusion**
336 Brixton Road, London. SW9 7AA
Telephone: 0800 652 3145
Website:
www.parentsforinclusion.org.uk



- **Royal Association for Disability and Rehabilitation (RADAR)**
12 City Forum, 250 City Road, London. EC1Y 8AF
Telephone: 020 7250 3222
Website: www.radar.org.uk



- **Royal National Institute for the Blind** 105 Judd Street, London. WC1H 9NE Telephone: 0303 123 9999
Website: www.rnib.org.uk



- **Scope**
6 Market Place, London. N7 9PW
Telephone: 0808 800 3333
Website: www.scope.org.uk



- **Sense**
101 Pentonville Road, London. N1 9LG
Telephone: 0845 127 0060
Website: www.sense.org.uk



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