

Additional Support Needs Tribunals for Scotland





This guide is about Tribunal hearings for school and nursery pupils with additional support needs.

A hearing is a meeting that is held when a parent or young person does not agree with the education authority about a co-ordinated support plan or a school placing request.

At the Tribunal hearing, there are 3 people and one of them is a lawyer. The lawyer will be the Tribunal's convener - the person who is in charge of the hearing. The other two people know about education and learning support. The 3 people at the Tribunal will ask questions of the parent or young person and will listen to what they say. They will also ask questions and listen to the education authority and any other people at the Tribunal. This is so they are clear what it is that people do not agree about. Then they will make a decision.

There are some words in this guide that you might not know, and you can find out what they mean on page 15.

This guide has been written by the Additional Support Needs Tribunals for Scotland.



You can get this information on a DVD too.

Phone 0845 120 2906 for a DVD.

Index

What do Tribunals deal with?	4
Co-ordinated support plans	4
School placing requests	6
Who can ask us to set up a Tribunal hearing?	7
What happens when you contact us?	8
At the hearing	10
Representatives	11
The decision	12
Help and support	12
What can the Tribunal decide?	13
What happens after the Tribunal has made a decision?	13
How long does it all take?	14
After the Hearing	14
What words mean	15

What do Tribunals deal with?



Co-ordinated Support Plans

Co-ordinated support plans are for children and young people with complex additional support needs that will last for at least a year and who need help from at least one person from another organisation (such as a hospital) **and** at school.

Disputes about getting a co-ordinated support plan

You can go to a Tribunal if:

- You have asked your education authority to see if your child has additional support needs that would entitle him or her to a co-ordinated support plan, and it has not replied. This is often called “asking for an assessment”.
- The education authority has said your child needs a co-ordinated support plan but 16 weeks have passed and they have not given you one.
- The education authority says that your child needs a co-ordinated support plan, but you do not agree.
- The education authority says that your child does not need a co-ordinated support plan, but you do not agree.

Disputes about what the co-ordinated support plan says



You can go to a Tribunal if:

- You do not agree with the information in your child’s co-ordinated support plan, or if you think that something important has been missed out.

Disputes about reviews

You can go to a Tribunal if:



- The education authority has reviewed your child's plan and says he or she still needs the plan and you do not agree.



- The education authority has reviewed your child's plan and says he or she does not need a plan any more and you do not agree.

- The education authority has not reviewed your child's plan for a year.

- The education authority has started to review your child's plan but is taking longer than 12 weeks to finish the review.



- You have written to the education authority and asked it to review your child's co-ordinated support plan because there has been a big change in your child's life, and the education authority has said no.

Placing requests



A placing request is when you write to your education authority and ask if your child can go to a school that is not his or her local school.

You can only go to a Tribunal about placing requests when you get a letter that says your placing request was refused, **and**



- your child has a co-ordinated support plan

or

- a co-ordinated support plan is being written for your child

or

- you have already asked for a Tribunal because the education authority will not give your child a co-ordinated support plan.

You can go to a Tribunal if:



- The education authority says no to your placing request.

or

- The education authority does not reply to your letter about the placing request for 2 months or more.

If you put in a placing request in March for the start of the next school year, and you have not had a reply from the education authority by 30 April, this counts as saying no to your placing request.

Who can ask us to set up a Tribunal hearing?



A parent or the person who looks after the child with additional support needs can ask us to set up a Tribunal.



A young person who is 16 or 17 can ask us to set up a Tribunal.



If a young person who is 16 or 17 cannot ask us to set up a Tribunal, a parent or a person who looks after the young person can ask us to do it.

What happens when you contact us?



You will have to fill in a form with information about your case and why you think a Tribunal should hear it. It is important to give us as much information as you can. This is called your reference. You should also give us copies of things like reports, letters to the education authority and any co-ordinated support plan.

We can send you the form or you can do it online. If you fill it in online, we will send you a copy of this in the post for you to sign and send back to us.



We will make sure that your reference is about something that we can deal with and then we will send a copy of your reference to the education authority. We will give the education authority 6 weeks to tell us its views and let us know what it does not agree with.

If we do not hear from the education authority within 6 weeks, it does not have the automatic right to come to the Tribunal hearing.

Sometimes, the Tribunal does not need to hold a hearing where you and the education authority are present. The Tribunal can sometimes meet on its own to look at the papers you and the education authority have sent us. If this is going to happen, we will let you know and we will tell you when you can expect a decision about your reference.



If your reference is about a matter that we are not allowed to deal with, then the reference will be dismissed. This means that the hearing will not go ahead.



You will also have 6 weeks to send us more information if you want. You may want to write a case statement, which is a paper that says why you think the decision about the young person or the child is wrong. You do not have to do this – sometimes all the information will be in your reference.

When you have sent us your reference, it is a good idea to think about who you might want to bring to the Tribunal hearing as a witness. You should read [Guidance for Witnesses](#) before you decide. You can bring 1 or 2 witnesses with you. If you think you might need to bring more than 2 witnesses, please let us know. The convener will decide whether this is allowed.

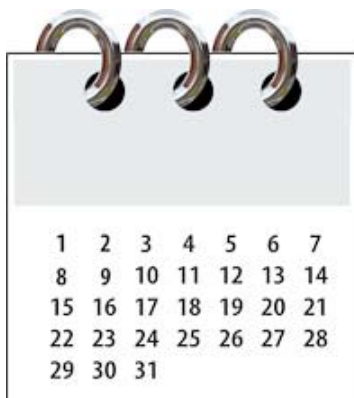
You do not need to bring a witness if you do not want to.



Before the hearing, the convener will set up a telephone conference call with you and the education authority to talk about what will happen on the day of the hearing. (A telephone conference call is where more than two people speak to each other on the phone. You do not need any special equipment for this conference call. We will let you know how it works.)

You should still try to come to an agreement with the education authority before the Tribunal hearing. If you and the education authority can agree what will be done for the child or young person, the reference will be dismissed. This means that the hearing will not go ahead.

At the hearing



When you get a date for your hearing, you must keep this date free. If you cannot come to the hearing on the date we give you, you must tell the Secretary as soon as possible. We will give you a date for your hearing as soon as we can.

You must try to make sure that your witnesses can come on the date we give you. If they cannot come on the date, they can give us the information we need by phone or in a letter.

You should give your witnesses a copy of the Guidance for Witnesses leaflet.

If your witness does not want to come to the hearing, we can send a citation, which means your witness is breaking the law if he or she does not come to the hearing.



The hearing can last for a day or more, and it will not usually be too far away from your home. You will get breaks for tea and coffee. You may have to buy your own lunch or bring a packed lunch, but if you do, we will give you some money for it. We will tell you what you need to do about lunch when we send you a letter with details about the hearing.

Hearings are held in a private room and your witnesses will only be allowed in the room when they are giving evidence. There is a room with tea and coffee that witnesses can wait in.



If you want, your child can speak at the Tribunal hearing. If you think that your child would like an advocacy worker (someone to help him or her to speak up) we can give you a list. You do not need to pay for an advocacy worker for your child.

If your child wants to tell us what he or she thinks but does not want to speak at the Tribunal hearing, your child can write to us or send us a CD or video/DVD.

The hearing will be recorded on a CD or tape in case you or the education authority appeals to a court afterwards. If you want a copy of the recording, you must write to the Secretary and say why you want it.

Representatives



If you want someone to help you with your case and speak for you at the hearing, you can bring a representative. It can be someone in your family, a friend, or a professional person like a lawyer.

You must write to us and tell us if you are going to use a representative and give us their name and address, so that we can send them the paperwork for the Tribunal hearing.

Even if you decide to have a representative, you should come to the Tribunal hearing too, because the Tribunal will usually want to speak to you as well.

If you (or your representative) or the education authority does not come to the hearing, or if no-one turns up, the Tribunal will make a decision and let everyone know what they decide.

The decision



The convener can sometimes make a decision at the end of the hearing. If this is not possible, the convener will send a letter to you and the education department with a decision. The convener will usually do this within 2 weeks.

Help and support

It is better for everyone to come to an agreement without a Tribunal hearing, and under the law, the education authority must make mediation available if you want it. This is where you and the education authority sit down with someone who is trained to help both of you to talk things over and come to an agreement. The mediation service is independent, which means that they are not on your side or the education authority's side.

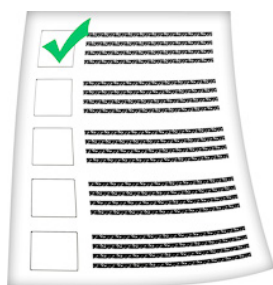
Enquire

Enquire is the national advice service for education and additional support needs. Its phone number is 0845 123 2303. It can help you find an advocacy group to help you prepare for a Tribunal hearing.

www.enquire.org.uk

We cannot give you advice about what you should write in your reference or what you should say at the Tribunal hearing, but if you want to know about how Tribunals work, you can call us on 0845 120 2906. On our website, you can look at the decisions which have been made in other Tribunal hearings. [Additional Support Needs Tribunal for Scotland - decisions](#)

What can the Tribunal decide?



The Tribunal can say that your reference is **allowed**. This means that the Tribunal will tell the education authority what it has to do for your child, and when it has to do it.

The Tribunal can **confirm** the education authority's original decision. This means that the Tribunal has decided that it cannot change the decision about your child.

What happens after the Tribunal has made a decision?

The Tribunal's decision is final. If you think that the Tribunal has not followed the law or has not explained its decision properly, you can make an appeal to the Court of Session.

You cannot appeal just because you do not agree with the Tribunal's decision.

How long does it all take?



If all the information we need is on your reference, we will try to register it within 2 days.

If your reference is about matters that we can deal with, we will write to the education authority and give them 6 weeks to reply.

During these 6 weeks, you can prepare your case statement.

We will give you a date for your Tribunal hearing as early as possible.

We will usually write to you and the education authority 14 days after the end of the hearing to tell you what the decision is. If your reference has been complicated it might take a little longer.

After the Tribunal hearing

You can get travel expenses (train or bus fares) for coming to the Tribunal hearing. You can also get travel expenses for some people who came with you, like:

- Your child
- Someone to look after your child
- Your witnesses
- Your representative



When there has been a hearing, we put the decision on our website, but we remove the names of people and schools so that no-one will know that the hearing was about your child. When all the names have been removed from your decision, it will go on the website. This usually happens 3 months after you get your decision. We will send you a copy of the information about your decision before we put it on the website. If you think that the information about your decision should be changed before it goes on the website, you can write to the Secretary and say why you think this.

What words mean

Convener: a lawyer who is in charge of the Tribunal hearing.

Co-ordinated support plan: a paper that says how the school and other services will work together to support your child. It says who is in charge of making sure the things in the plan happen. It is a legal document.

Education Authority: the part of the council that is in charge of education (nursery, primary and secondary schools). The education authority has a legal duty to do the things in your child's co-ordinated support plan.

Local school: your home is in the "catchment area" for a local school where your child will be offered a place. Your council can tell you what your local school is.

Reference: all the information you give us about why you think we should have a Tribunal hearing is called your reference.

Case statement: after you have sent us your reference, you have six weeks to write a case statement if you want to. This is a paper that says why you think the education authority has made the wrong decision about your child. During these 6 weeks, you can also send us any other information that may help the Tribunal understand what your child's needs are and how they affect him or her at school.

Witness: someone who knows your child well and can tell the Tribunal about your child's needs and how they affect him or her. This could be a teacher, or someone who has expert knowledge, like a speech therapist.

Citation: if your witness does not want to come to the Tribunal, we can send a citation, which means that he or she is breaking the law by not coming to the Tribunal.

Advocacy worker: a person who has had special training and will spend time with your child to see what he or she wants to happen. The advocacy worker can support your child to put his or her views across, or can talk for your child. The advocacy worker cannot give advice to, or make decisions for, your child.

Representative: if you are worried about speaking to a Tribunal, your representative can speak for you. A representative can be a lawyer or someone who understands what happens at Tribunal hearings or someone who knows you well.

Mediation: where a trained person helps two sides to come to an agreement. Education authorities must offer a free, independent mediation service to parents or young people.

Court of Session: the Court of Session can hear your case if you or your lawyer thinks that the Tribunal did not follow the law. You cannot go to the Court of Session just because you disagree with the Tribunal's decision.

Contact us

If you need more information about our Tribunals, please contact us.

You can write to us at:

Additional Support Needs Tribunals for Scotland
Europa Building
450 Argyle Street
Glasgow
G2 8LG

You can email us:

inquiries@asntscotland.gov.uk

You can phone us:

0845 120 2906 (calls are charged at local rate)

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