

Tribiwnlys Anghenion
Addysgol Arbennig Cymru



Special Educational
Needs Tribunal for Wales

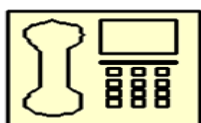
What is a Claim?

A booklet and form for children and young people



Contact us at **SENTW** if you have any questions after you have read this booklet:

This document is also available in Welsh. Please contact the Tribunal for a Welsh version of this document.



Free phone:
0800 8766664



Text:
07969 817505



Email:
sentw@wales.gsi.gov.uk



Website:
www.sentw.gov.uk



Post:
SENTW
Government
Buildings LD1 5HA

This booklet tells you about:

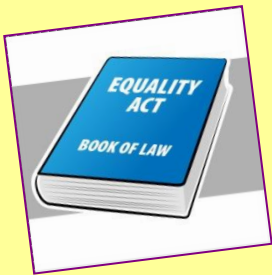
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Tell us if you have a case friend form – You can use the form at the back of this booklet to tell us the name and address of your case friend if you have one.	

Language Preference

SENTW welcomes receiving correspondence in Welsh or English. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding. The Tribunal also welcomes phone calls in Welsh or English. You may submit forms, documents, and make written representations to SENTW in Welsh or English.

What is a claim?

A claim of disability discrimination is when you tell us that you think you have been treated unfairly in school. And that the treatment is because of your disability or for another reason to do with disability,



- * the law calls this less favourable or unfavourable treatment.**

A claim of disability discrimination can also be when you tell us about a school rule or way of doing things in school that you think is unfair to disabled pupils,

- * the law says that a rule or policy that disadvantages (is unfair to) a disabled pupil or a particular group of disabled pupils when compared with pupils who are not disabled, is discrimination.**

For example, a claim may be about not being allowed to go on a school trip because you are a wheelchair user.

To make a claim you will need to tell us about:

- * what happened,**
- * the dates when you say the discrimination took place,**
- * why you think the treatment was unfair,**

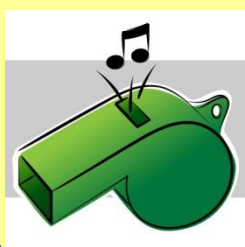
- * what the treatment has to do with disability – this can be your disability or another persons disability,
- * what you want us to do about it.

Your parent can also make a claim. So a claim can also be when your parent tells us that he or she thinks you have received worse or less favourable treatment in school because of a disability.

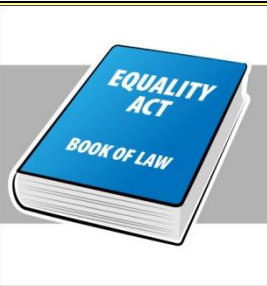


Ask us at **SENTW**, if after reading this booklet you are still unsure **what** an appeal is, **how** to make an appeal and the **time-limit**.

SENTW is a tribunal. People can go to a tribunal if they are unhappy about certain decisions that affect them.



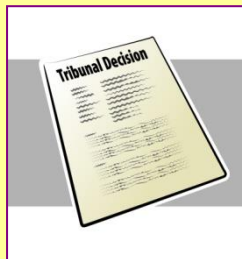
- * A tribunal is a bit like a **referee**. We do not take sides but check that important rules, called laws, have been followed correctly when decisions were made.
- * Laws tell us things like a child must go to school or if they do not go to school then they must have some other form of education.



* If we find that the law was not followed correctly then the tribunal can make an order to make changes or put things right.

For example, a **tribunal order** can be about:

- * putting things right if we find that you have been treated unfairly in school because of a disability,
- * we cannot order compensation,
- * we will tell you if we do not agree with your appeal. The appeal will be dismissed and no tribunal order will be made.





Words that may help

Disability

The Law says that a person has a **disability** if he or she has a **physical or mental impairment** which has a **substantial and long-term** adverse effect on that person's ability to carry out normal day-to-day activities:

- **physical impairment** - this means something that affects the body. Some examples include epilepsy or cancer or something that affects your ability to hear or see or the use of your arms or legs,
- **mental impairment** - this means something that affects the mind. Some examples include autism, learning disabilities, or emotional and behavioural difficulties,
- **substantial disadvantage** - this means something that is not minor or trivial,
- **long-term** – this means it has or is likely to affect you for at least 12 months or longer.

Disability Discrimination

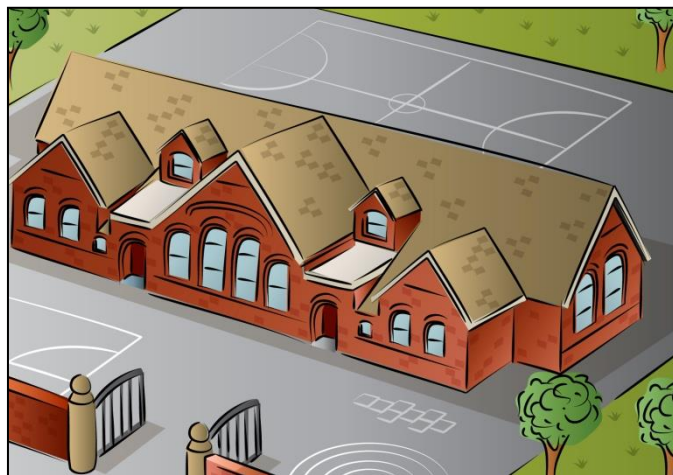
- **disability discrimination** is when a person receives less favourable or unfavourable treatment (worse or unfair treatment) than another person and it is because of a disability,
- **disability discrimination** is also where a rule or way of doing things has been put in place and which disadvantages (is unfair to) disabled pupils when compared with pupils who are not disabled.

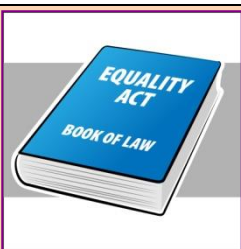
Local Authority

- the **Local Authority** is part of government. The people who work for the Local Authority look after lots of local services, like your school.

Maintained school

This means a school or nursery that is looked after and paid for by the Local Authority. The Responsible Body of a **maintained school** is usually the School Governors.





The Equality Act

The Equality Act is the law

- the law says that schools must not discriminate against, harass or victimise pupils,
- the law covers pupils at the school, pupils who may attend the school and in some cases pupils who used to go to the school.



Who is the claim against?

A claim will always be against the Responsible Body

- the Responsible Body is the organisation that is responsible for the school,
- they are also responsible for ensuring that disability discrimination does not happen in the school,
- depending on what type of school you go to or want to go to and depending what your claim is about, the Responsible Body will be either the Local Authority, school governors or the school owner,
- the Head Teacher or an individual teacher cannot be named as the Responsible Body.

Types of Discrimination.

The law means that people who have or have had a disability are protected against different types of discrimination, these are:

1. Direct disability discrimination

- this is where a pupil receives less favourable (worse) treatment than another pupil because of a disability,
- it can also be where a pupil is treated less favourably (unfairly) because of their friendship or relationship with a disabled pupil or where it is mistakenly thought that they have a disability.

2. Indirect discrimination

- this is where a rule, policy or practice applies to all pupils or a particular pupil group, but it puts pupils with a particular disability at a disadvantage (is unfair to) when compared with pupils who are not disabled,
- and the rule, policy or practice cannot be justified.



3. Discrimination arising from disability

- this is where a disabled pupil is treated unfavourably (unfairly) because of a reason related to their disability and the unfair treatment cannot be justified,
- and it cannot be shown that the school or local authority did not know about the pupils disability and could not have been expected to know.

4. Disability related harassment

- this is where a pupil receives unwanted behaviour related to a disability. And the behaviour has the purpose or effect of violating a person's dignity (is disrespectful to that person), or
- the behaviour is hostile, degrading, humiliating or offensive (unfriendly, rude or hurtful) to the pupil.

5. Disability related victimisation

- this is where a pupil is treated less favourably (unfairly) because they are taking or have taken or might be taking action against discrimination under the Equality Act, or
- they are treated less favourably (unfairly) because they are supporting a person taking action against discrimination under the Equality Act.

Discrimination can sometimes be justified

- even though a pupil may have been treated unfavourably (unfairly) or placed at a disadvantage, the discrimination may be lawful (allowed) if the school or Local Authority can show that it was **justified**,
- **justified** means being able to show that there was a lawful and genuine reason for the treatment and that it was a fair and balanced and reasonable response,
- the only types of discrimination that it may be possible to **justify** are indirect discrimination and discrimination arising from disability.

Schools and Local Authorities must make reasonable adjustments

- the law says that schools and Local Authorities must take **reasonable steps** to make sure that disabled pupils are not put at a substantial disadvantage when compared to a pupil who does not have a disability,
- this means taking reasonable steps to overcome barriers that may get in the way of pupils with different kinds of disabilities,
- the **reasonable adjustments** duty applies to pupils at the school, pupils who want to attend the school and in some cases pupils who used to go to the school,
- an example of a **reasonable adjustment** is the school giving work in large print to a pupil who cannot see very well.

Children who do not have a disability

The law also protects children who do not have a disability against certain types of discrimination, these are:

- **direct discrimination based on association** - where a pupil is treated less favourably because of their friendship or relationship with another person who does have a disability,
- **direct discrimination based on perception** – this is where a pupil is treated less favourably because it has been mistakenly thought that they have a disability,
- **disability related harassment** – this is where a pupil receives unwanted behaviour related to a disability which has the purpose or effect of violating a person's dignity. Or the unwanted behaviour is hostile, degrading, humiliating or offensive to the pupil,
- **disability related victimisation** – this is where a pupil is treated less favourably because they are taking or have taken or might be taking action against discrimination under the Equality Act. Or they are treated less favourably because they are supporting a person taking action against discrimination under the Equality Act.



Comisiwn
**Cydraddoldeb a
Hawliau Dynol**

**Equality and
Human Rights**
Commission

The Equalities and Human Rights Commission (EHRC) may be able to help you if you have any questions about disability discrimination.

EHRC Wales Helpline: 0845 604 8810

Wales textphone: 0845 604 8820

Wales fax: 0845 604 8830

Website: www.equalityhumanrights.com

Email: waleshelpline@equalityhumanrights.com

What you can Claim about

Circle Yes or No if you think there has been disability discrimination, harassment or victimisation in school about:

School admissions

Yes
No

Education, including access to any benefit, service and facility (this means all aspects of school life including what happens at breaks and lunchtimes as well as school trips and afterschool activities and clubs)

Yes
No

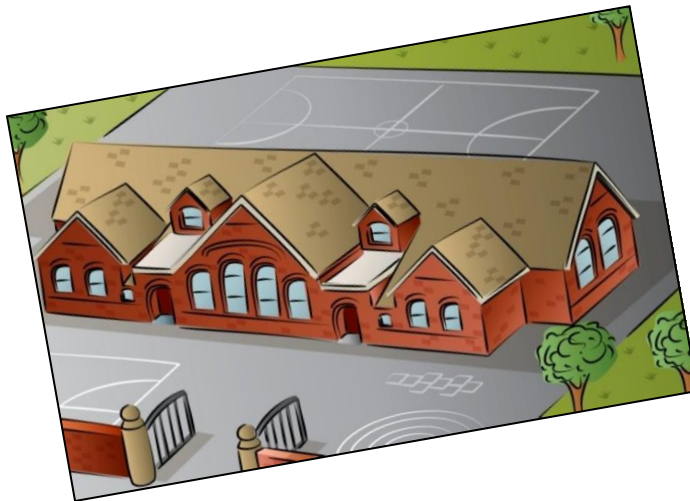
Exclusions

Yes
No

If you said Yes to any of the above, you may be able to make a claim to SENTW.

SENTW does not deal with all types of claims, contact your school or local authority if your claim is about a:

- maintained school admissions decisions, or
- permanent exclusion from a maintained school.



School admissions, this means:

- arrangements that are made for deciding who is offered admission as a pupil, the terms on which an offer is made to a pupil,
- not admitting a person as a pupil.

Education, this means:

- the way education is provided,
- the way pupils are provided with access to any benefit, facility or service in school,
- not providing education for a pupil,
- not providing a pupil with access to a benefit, service or disability,
- by subjecting the pupil to any other detriment (disadvantage)

Exclusions, this means:

- permanent or fixed term exclusions,
- lunch time exclusions.

Important time limits!



There is a time limit for making a claim.

You have 6 months to make a claim.

The 6 months start from the date of when you say that the disability discrimination took place.

Your claim application must be received in SENTW's office within 6 months from when you say the disability discrimination took place



You may have more time if you use the EHRC conciliation service. But contact us about this before the 6 months is up.



Who can help?

People who may be able to help you with your Claim:



Case Friend

A **Case friend** is a person who knows you well. It can be someone in your family or someone like a teacher or social worker.

You can make a claim on your own or with the help of a case friend. A case friend can help and support you number of ways, by:

- * avoiding or sorting out disagreements with the local authority using dispute resolution arrangements,
- * discussing with you whether or not to make a claim,
- * making claim application,
- * receiving information about the claim,
- * ensuring your wishes and views are represented at hearings,
- * advising you on the progress and outcome of a claim.

Your **Case friend** will need to read our booklet: **Information for Parents and Case Friends**.



Advocate

An **Advocate** is someone you feel comfortable talking to, who will listen to you and tell us or help you tell us how you feel about the appeal and what changes you want to make. They may also be able to help you with your appeal.

There may be some children and young people who don't have anyone to speak up for them. They can have help from an independent professional advocate who has received training as an advocate and is not involved in your situation. They can help you tell grown ups or tell us on your behalf, what you want to happen.

Your local authority must refer you to an **advocate** if you ask them for one.



FREEPHONE
080880 23456

MEICYMRU You can also contact **meic**, the free 24/7 confidential advocacy and advice helpline for children and young people.



You can still talk to other people

If you decide to make a claim you are still able to talk to other people who may be able to help you:

Your School or Local Authority

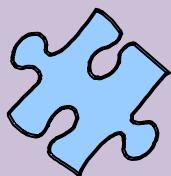
- You can talk to people at your school or from the local authority. You can tell them why you think there has been discrimination and they may be able to help you to sort out the disagreement,
- Your local authority must put you and your case friend if you have one, in touch with people who have been specially trained to help solve disagreements. This is called a disagreement resolution service

Obtaining information about your case

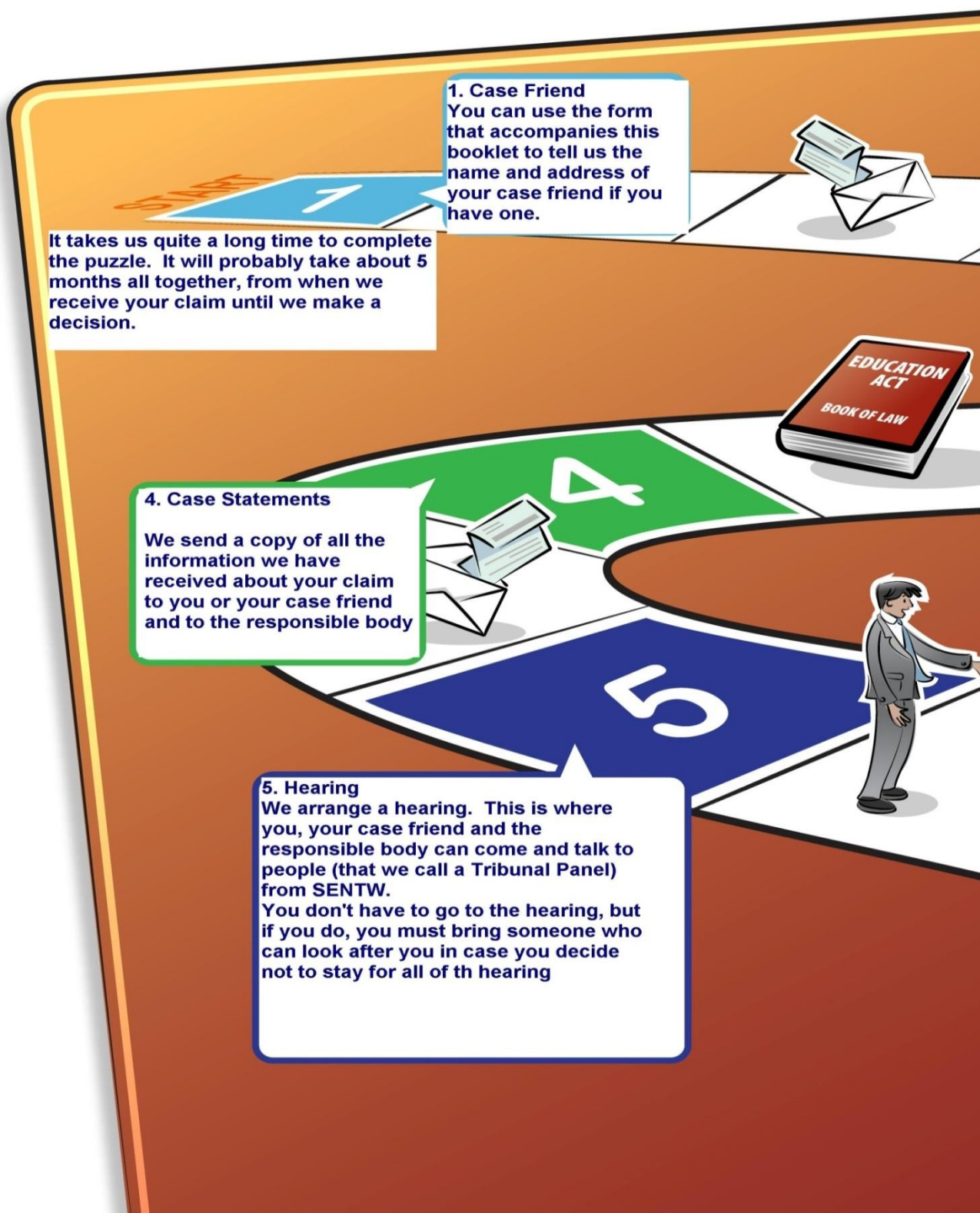
- You can find out information about your case from the school or local authority by sending them a questionnaire. The questionnaire is a form that has set questions. A copy of the form is on the Government Equalities Office website: [Equality Human Rights](#).

The Equalities and Human Rights Commission (EHRC)

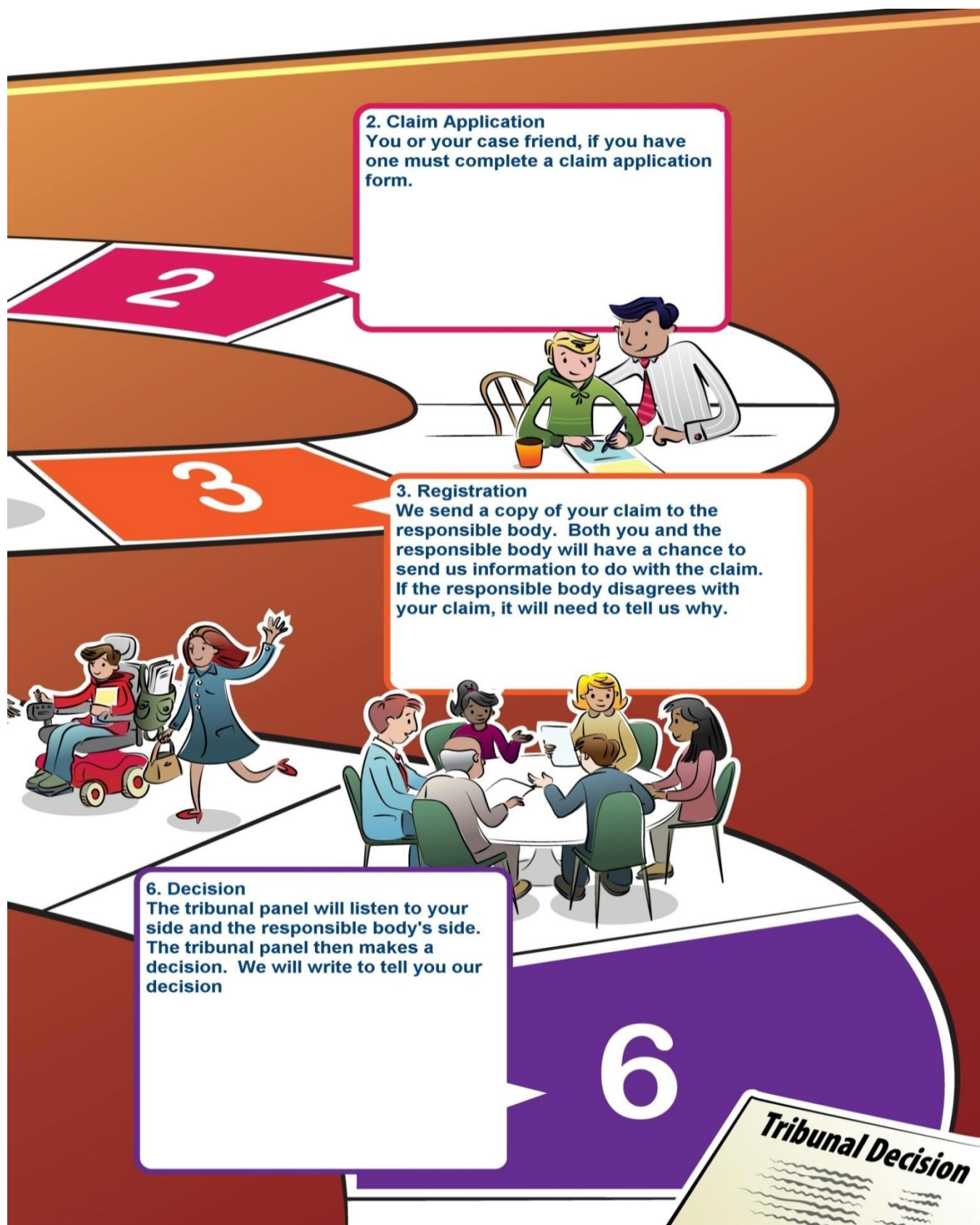
- The (EHRC) may be able to give you free advice and guidance about disability discrimination and your claim. Tel: 0845 604 8810,
- If you use the EHRC conciliation service before the 6 month time limit for making a claim is up you, may have more time to make the claim. It is important that you contact us at SENTW to ask us about this before the 6 month time limit is up.



What happens next?



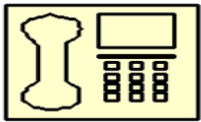
An appeal is like a big jigsaw puzzle. There are lots of different pieces that we have to put together so that we can see the whole picture.



Tell us if you have a case friend form

If you decide to make a claim you can:

- Use the form with this this booklet to tell us the name and address of your case friend, if you have one. We will then send a claim application and all information about your appeal to your case friend. **OR**
- Contact us at SENTW to ask us to send you a claim application or download a claim application from our website.



Free phone:
0800 8766664



Text:
07969 817505



Email:
sentw@wales.gsi.gov.uk



Website:
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Post:
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