



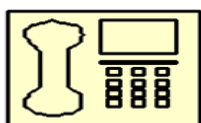
# Helping children and young people

A booklet and form for parents and case friends



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.



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0800 8766664



Text:  
07969 817505



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## About this booklet

This booklet provides information for parents and case friends helping children and young people who want to make a special educational needs appeal or claim of disability discrimination to SENTW.

## About SENTW

SENTW is a Tribunal. This means that we are independent of government and local authorities and that our decisions are legally binding.

At SENTW we hear and make decisions about:

- special educational needs **appeals** against certain decisions made by Welsh Local Authorities, and
- **claims** of disability discrimination against schools in Wales.

You should contact SENTW if you have any questions about how to make an appeal or claim or if anything is unclear about the process. We cannot however give legal advice or help with preparing an appeal or claim.

About the rights for children and young people.

Children and young people living in Wales have a right to:

- **appeal** certain decisions made by their local authority about their special educational needs,
- bring a **claim** about disability discrimination against schools in Wales.

The appeal and claim rights are identical to those that already exist for parents. Parental rights to make an appeal and claim are not affected, but it does mean that children now have the same rights as their parents to make their own appeal and claim.

The law recognises that not all children will feel sufficiently able to make an appeal or claim. In this situation a **case friend** can act on behalf of a child to make an appeal or claim to us at SENTW.

## 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.

## This booklet tells you about:

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## Who can be a case friend?

A case friend will be somebody who:

- knows the child well,
- understands the child's needs,
- listens to and represents the wishes and views of the child.

This could be, for example, a parent or grandparent, a brother or sister or a teacher at school.

For some children, who are looked after away from home, it might be their foster carer or social worker.

## What are the duties of the case friend?

The **law** says that a child's case friend must:

- make representations and exercise rights fairly and competently,
- have no interest adverse to that of the child,
- ensure that all steps and decisions taken by the case friend are for the benefit of the child and take the child's view into account.

## What does a case friend do?

A case friend will help and support a child in a number of ways, by:

- avoiding or sorting out disagreements with the local authority and/or responsible body using dispute resolution arrangements,
- discussing with the child whether or not to make an appeal or claim,
- completing an appeal or claim application and sending it to SENTW,
- receiving information about the appeal or claim,
- preparing a case statement and sending it to SENTW,
- ensuring the child's wishes and views are represented at the hearing,
- advising the child on the progress and outcome of an appeal or claim.

## What are the restrictions on people acting as case friends?

The law says that a person can **only** become a case friend if:

- the person is not barred from regulated activity relating to children within the meaning of the <sup>1</sup>**Safeguarding Vulnerable Groups Act 2006**.

A person who wishes to act as a case friend must submit a **declaration of suitability** to SENTW.

## What is a declaration of suitability?

- A declaration of suitability is evidence of a persons suitability to act as a case friend.
- A person wishing to act as a case friend must complete the case friend, Declaration of Suitability form at the back of this booklet and send it to SENTW.
- Contact SENTW if you need us to send you a copy of the case friend declaration form. A copy can also be downloaded from the SENTW website.
- The following documentation must be sent with a completed declaration of suitability:

If you are not a parent,

- the views of the child's parent in relation to the person's wish to act as a child's case friend, **OR**
- an explanation of why the person has not established the views of the child's parent.

If the person wishing to act as a case friend is **not** a close relative of the child,

- an enhanced disclosure certificate issued by the Criminal Records Bureau, confirming the persons suitability to work with children.

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<sup>1</sup> Under **Chapter 47, section 3(2)(a) of the Safeguarding Vulnerable Groups Act 2006**, a person is barred from regulated activity relating to children if the persons name is included in the list in Part 1 of Schedule 3 to that Act ("the children's barred list")

(The Tribunal regulations state that a close relative of the child is the child's parent, step parent, brother, step brother, sister, step sister, grand-parent, uncle, aunt, nephew or niece.)

- If the person wishing to act as a case friend is a close relative of the child the declaration of suitability may be accompanied by evidence to support the suitability to act as a case friend.
- The person wishing to act as the child's case friend must send a completed and signed copy of the case friend declaration form to:
  - the child's parent
  - all persons/organisations who are party to the appeal/claim
- Any person wishing to act as a child's case friend will in all cases be required to submit a declaration of suitability form and the required documentation to SENTW.

## **What will SENTW do with the enhanced disclosure certificate?**

If you want to act as a case friend and you are not a close relative of the child as described in the above paragraph 'What is a declaration of suitability?' you must attach an enhanced disclosure certificate issued by the Criminal Records Bureau to your completed case friend declaration form.

SENTW will make a record of the disclosure certificates number and its start and expiry date. Certificates will then be returned by recorded delivery.

## **What does the law say about the appointment or removal of case friends?**

### **Appointment**

In certain circumstances the tribunal can direct the child to appoint a case friend.

This can be done in cases where a child has made an appeal or claim but the tribunal finds that he or she does not have sufficient understanding to proceed without a case friend.

### **Removal**

The Tribunal can direct that a person must not act as a case friend in situations where it finds that:

- the person does not meet the requirements set out in the above paragraph, “What are the restrictions on people acting as case friends?”,
- the person does not satisfy the requirement set out in the paragraph, ‘What are the duties of the case friend’,
- there is another good reason for removing the case friend.

## Do the new rights for children affect parental rights?

Existing parental rights to make an appeal and claim will not be affected by the new rights for children.

Parents can still make an appeal and claim whether or not their child makes one. Where a parent makes an appeal or claim it can be about the same or different reasons to the one made by their child.

The new law does however introduce some changes to the arrangements for making an appeal or claim. These are:

- Local Authorities must inform children as well as their parents when they have a right of appeal to SENTW,
- Local Authorities must provide children, their case friend if they have one, as well as their parents with information and advice about:

### **Special educational needs**

### **Disability discrimination in schools**

**Information and advice** can include matters such as access and use of **disagreement resolution services** and access and use of **independent advocacy services** for children.

- Children can make an appeal and claim on their own **or** with the help of a case friend.
- A parent of a child can act as a case friend, even if the parent has made an appeal or claim themselves.

## **What help can case friends have?**

Local Authorities must provide information and advice to case friends about:

- special educational needs,
- disability discrimination in schools.

Information and advice can include matters such as disagreement resolution services and how to access the service and independent advocacy services for children and how to access the service.

The Local Authority may also be able to put case friends in touch with an independent supporter or representative, who may be able to help with the appeal or claim.

Legal aid funding may be available to a child. If it is, an application for legal aid would need to be made. The law society or a local citizen's advice bureau can provide the names of solicitors who run the legal aid scheme. The case friend may then be able to have a meeting with a solicitor to ask advice about preparing an appeal or claim on behalf of the child.

## **Is the process for making an appeal or claim different for case friends?**

No. The process for making an appeal or claim is the same as that for parents. In all cases an appeal or claim application must be completed and submitted to SENTW.

Case friends must however complete and return the "Case friend, declaration of suitability" form (SENTW 26). A copy of this form is attached to this booklet. Additional copies can be obtained from SENTW and downloaded from our website.

## **Are the processes different for children making their own appeal or claim?**

The only differences are:

- children and young people can have a case friend to make an appeal or claim on their behalf, and
- children and young people can tell us the name and address of their case friend if they have one by completing and sending us the 'Tell us if you have a case friend' form (SENTW 24). We will then send an appeal application and all information about the appeal to the case friend.



Apart from this the process for making and appeal or claim is exactly the same as that for a parent. In all cases an appeal or claim application must be completed and submitted to SENTW.

## What information has SENTW produced for children and young people?

We have produced an **information pack for children, parents and case friends**.

The information pack contains the following publications and forms which we hope that **all** children involved in an appeal or claim will find helpful:

- What is an appeal, **a booklet** for children and young people (SENTW 22),
- Tell us if you have a case friend, **a form** that children and young people can use to tell us the name and address of their case friend, if they have one. (SENTW 24),
- Helping children and young people, **a booklet** for parents and case friends helping children and young people to make an appeal or claim (SENTW 25),
- Case friend, declaration of suitability **form**, this form must be completed by anyone wishing to be a case friend (SENTW 26),
- Going to a tribunal hearing, **a booklet** for children and young people (SENTW 27),
- What is a claim, **a booklet** for children and young people (SENTW 23),
- Going to a tribunal hearing, **a DVD** for children, parents and case friend and young people.

**Please contact us at SENTW to ask for an information pack.**

## Can case friends sign the appeal and claim form on behalf of the child?

Yes, case friends can sign the appeal and claim form on behalf of the child.

## **I am a parent making an appeal or claim. Can I also be a case friend to my child?**

Yes. A parent who is making an appeal can also be a case friend to their child.

Anyone acting as a case friend must complete the “Case friend, declaration of suitability” form (SENTW 26).

## **Does the person wishing to act as a case friend need parental consent to do so?**

If you do not have ‘parental responsibility’ for the child you should seek the support and views of someone who does e.g. a parent, to act as a case friend.

Case friends are required to submit a “Case friend, declaration of suitability” form (SENTW 26). The declaration form must include the views of the child’s parent in relation to the person’s wish to act as the child’s case friend or an explanation of why the person has not established the views of the child’s parent.

You must let us know if there is a good reason why the views of the parent have not been sought.

The person wishing to act as the child’s case friend must send a copy of the completed declaration of suitability form to the child’s parent and anyone else or any other organisation who is a party to the appeal or claim. This will usually be the Local Authority and or the Responsible Body of a school.

## **Does a child need the consent of their parent to make an appeal or claim?**

No, a child does not need parental consent to make an appeal or claim. We will ask children or their case friend, if they have one, to let us know the views of their parent about the appeal or claim.

Equally, where the parent has made an appeal or claim they will need to let us have the views of the child on the appeal or claim.

## I want to act as a case friend. How do I let you know?

If you are making an appeal or claim on behalf of a child you will need to register this with us at SENTW. You do this by completing a Case friend, declaration of suitability form, (SENTW 26). You still need to complete this form even if you are a parent acting as a case friend for your child. The form is attached to this leaflet, alternatively a copy can be downloaded from our website or obtained by contacting us, at SENTW.

## What is the process for making the appeal or claim?

The process for making an appeal and claim is the same for parents, children and young people and case friends. To make an appeal or claim the following forms must be completed and returned to us at SENTW:

- SEN Appeals: **Appeal application**,
- Disability Discrimination Claims: **Claim application**.

In addition to the above we have produced an 'information pack' for children and young people. Children and young people may also find it helpful to use the following forms to **tell us if you have a case friend**:

- SEN Appeals and Disability Discrimination Claims: Tell us if you have a case friend, form (SENTW 24)

A copy of all tribunal forms can be downloaded from our website, or obtained by contacting us at SENTW.

## What are the time-limits for making an appeal or claim?

There are strict time-limits for making an appeal and claim:

- **SEN Appeals:** We must receive the appeal application no later than 2 months from the date of the letter from the Local Authority telling the parents about its decision. The Local Authority must tell children as well as their parent about decisions.
- **Disability Discrimination Claims:** We must receive the claim application within 6 months from when the alleged incident of disability discrimination took place.

## Where can I find more information and advice?

Parents and case friends are advised to read our guidance booklets:

- **Special Educational Needs: How to make an appeal,**
- **Disability Discrimination in Schools: How to make a claim.**

A copy of all tribunal publications can be downloaded from our website, or obtained by contacting us at SENTW.

If after reading this leaflet and the above guidance you have any questions about the role of a case friend or the appeals and claims process please do get in touch:

**SENTW helpline: 01597 829800**

**SENTW email: [sentw@wales.gsi.gov.uk](mailto:sentw@wales.gsi.gov.uk)**

## Declaration of Suitability Check List

### Evidence of suitability to act as a case friend.

If you decide to be a case friend, please use this check list to help you complete your declaration form and to ensure that you provide us with all the necessary information:

#### In all cases, you must send us:

- a completed **case friend, declaration** of suitability form (SENTW 26)
- If you are not a parent, the views of the child's parent in relation to your wish to act as the child's case friend OR
- An explanation of why you have not yet established the view's of the child's parent.
- If you are not a close relative of the child, an enhanced disclosure certificate issued by the Criminal Records Bureau, confirming your suitability to work with children.
- If you are a close relative you may attach any evidence which you think supports your suitability to act as a case friend.

You must send a copy of the completed, signed declaration of suitability form to:

- The child's parent if you are not the child's parent.



# Notes:

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