

LEGAL SUPPORT FOR PARENTS & YOUNG PEOPLE

DISABILITY DISCRIMINATION
& CLAIMS AGAINST SCHOOLS

SEN **4** YOU

The support we provide through SEN4You is offered to parents and young people in local authorities where we do not currently provide a service. This ensures that we are able to advise you without any conflict arising.

ABOUT US

SEN4You is a specialist service offered in the areas of Special Educational Needs (SEN) and Disability.

At SEN4You we provide advice and legal support to parents who are in dispute with their local authority in respect of the provision made for their child with special educational needs. We also provide support to young people aged 16 or over who require legal support to challenge their special educational needs provision and inclusion at college.

HELPING
YOU GET THE
CHANGES
YOUR CHILD
NEEDS



OUR SERVICES

As more children and young people with complex needs and disabilities attend mainstream settings, it is inevitable that issues of discrimination are likely to arise. The Equality Act 2010 protects those with a disability from being treated less favourably by schools and that includes maintained schools, academies, free schools and independent schools.

It is important to bear in mind that discrimination does not need to be deliberate or wilful and can occur in the following circumstances:

- A child/young person with a disability being excluded from school/post 16 provision without reasonable adjustments being made to meet their needs;
- A child/young person being prevented from attending an educational trip organised by the setting because of their disability and being treated less favourably than other children/young people; and
- A child/young person being denied admission to school/college because the setting perceives that it cannot cater for their disability.

It is not sufficient for schools/colleges to say that they were not aware that a child/young person had a disability and they need to take positive steps to support and identify children/young people who are presenting with long term difficulties, which may fall within the definition of a disability.

Where a child/young person is the victim of discriminatory treatment parents or the young person have the right to bring a claim before the Special Educational Needs and Disability Tribunal (SENDIST). This is a specialist and independent Tribunal which sits within HM Court Service and is tasked with deciding disputes in this area. Claims are brought against the Responsible Body for the school/college, which may be the Governing Body or in the case of an independent school, the proprietor.

What to expect

The Tribunal process can be a gruelling process and can take up to 20 weeks from lodging the claim. On lodging the claim, the Tribunal will fix a hearing date and issue case directions for the disclosure of evidence by both parties.

Claims will be heard across the country in local venues and hearings will last one day. All Tribunal hearings are managed by a specialist Judge who is legally qualified and they will be assisted by two specialist panel members. The panel members will have experience in disability related issues and are there to assist the Judge in reaching a decision.

It is important to bear in mind that the Tribunal is a legal proceeding, albeit more informal, and when bringing claims you will need to ensure that you have the evidence to support your claims that the school/college has discriminated against your child/ the young person.

Remedies Available

No financial compensation is available in the SENDIST where a claim of discrimination is found. Sanctions which may be awarded include:

- The responsible body being ordered to apologise for the discriminatory treatment
- The responsible body being ordered to undertake Equality Act training

However, where a discrimination claim is upheld, it could be sent to Ofsted to highlight failings within the school/college which may need to be investigated. There have been cases where schools have been closed by Ofsted and the trigger has been a finding of discrimination which has uncovered serious malpractice within the school.

Special Educational Needs (SEN) & Disability Tribunal support & representation

Local authorities are only required to provide support which is suitable and appropriate to meet a child's or young person's needs. Therefore, it is inevitable that there will be cases where there is a disagreement between parents, the young person and the local authority on how a child/young person's needs are best met.

Where there is a dispute and this cannot be resolved through mediation, parents and the young person (16+) have the right to appeal the decision to the Special Educational Needs and Disability Tribunal (SENDIST). This is a specialist and independent Tribunal which sits within HM Court Service and is tasked with deciding disputes in this area.

Although the SENDIST process is more informal than an ordinary court and is inquisitorial in nature, over the years it has become more legalistic and more and more parties are becoming legally represented. We can assist you in gathering all of the evidence that you will require to bring an appeal. Where we are instructed to represent you we will manage the process for you so you do not have to worry about the day-to-day management of the appeal. We will prepare all evidence for you and instruct experts to act on your behalf in providing independent advice about your child's needs and the support they require.

WHY INSTRUCT US?

We have extensive experience and knowledge from our work with local authorities and are leading experts in our field. We can offer you:

- Access to our specialist education and disability discrimination team. We have a vast depth of knowledge and expertise in special educational needs and disability discrimination. We will provide you with the time to fully explain your child's needs, so you are confident knowing that your case will be dealt with professionally, sensitively and ultimately ensuring that your child's needs are at the centre for all those involved. We will keep you informed of progress throughout, thus alleviating you of the pressure and burden of case management;
- Experience and knowledge of how local authorities function and make decisions;
- Insight into how local authorities prepare for appeals and address the issues that are raised;
- Experience of providing advocacy services before the First Tier Tribunal and Upper Tier Tribunal in a range of appeals;
- Competitive and cost effective rates.

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COSTS

We can assist you in gathering all of the evidence that you will require to bring a claim. The costs of a claim will vary depending on the complexity but the costs of representation and obtaining professional evidence can cost up to £10,000.

Unfortunately, costs are not recoverable from the "losing" party unless they have been shown to have acted unreasonably in responding to the appeal. Therefore, pursuing a claim is an expensive financial commitment. On the flip side, parents who engage legal representation will do so because they may be securing a change in culture at their child's schools and bringing to the public domain the discriminatory treatment that has taken place.

We can provide you with an initial estimate of costs when you contact us so that you can decide whether legal support is affordable. We are able to reduce our fees by offering fixed fees and low hourly rates.

We would invoice you on a monthly basis and would also be happy for you to make payments on account of costs to assist you in budgeting for the legal support

Unfortunately, we are not currently able to offer Legal Aid. For more information about firms who are able to offer Legal Aid, please contact the Civil Legal Advice line on 0345 345 4 345.





WHAT'S NEXT?

For an initial free discussion on whether we are able to advise you please contact us on **01908 889082** or by email at **advice@SEN4You.co.uk**

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