



Guidance for producing a Tribunal Bundle for the First-tier Tribunal SEND

This guidance has been revised and will apply to all appeals and claims registered by the Tribunal **from the 1 October 2018**.

Failure to comply with the deadline imposed for production of the Tribunal Bundle will lead to the automatic barring of the Local Authority (LA) or Responsible Body (RB) from further participation in the proceedings and may lead to the LA or RB response to the appeal/claim being struck out. Reinstatement to the proceedings will be at a Judge's discretion.

In order for a decision to be made in a case, it is essential the parties and the Tribunal panel have a well-ordered set of documents.

In **all** SEND cases, the LA or RB must prepare a Tribunal Bundle of the written evidence to be considered.

General principles:

1. All documents submitted to the other party and the Tribunal as evidence in a case **by the final evidence deadline** MUST be included in the Tribunal Bundle. The LA or RB cannot exclude evidence from the Tribunal Bundle, unless it is a duplicate.
2. The LA or RB must ensure that no document is included more than once. The parent or young person's initial copy of a document should be used and only if an exact duplicate is later submitted should it be removed. A document that contains amendments or annotations is a different document and should be included in the Tribunal Bundle.
3. The Tribunal Bundle should contain copies and not original documents.
4. Documents must be complete and legible. If a document is illegible or incomplete, it is the LA or RB's responsibility to attempt to obtain a better or complete copy.

5. The documents within each part of the Tribunal Bundle must then be put into chronological order starting with the oldest.
6. An electronic version of the Tribunal Bundle (preferably in .pdf format) must be prepared and sent to the Tribunal and other party so that it is received no later than 12 noon on the date specified in the Tribunal's registration directions. By the same deadline, a paper copy of the Tribunal Bundle must also be delivered to the parent or young person. The deadline date also appears in the 'Key Dates' grid at the end of the Tribunal's Registration Directions.

Preparing the Tribunal Bundle in a SEN appeal

The documents must be divided into the following parts:

Part A: The Core Tribunal Bundle (no page limit)

This must include:

- The parents/young person's notice of appeal form and any reasons for appeal or amended grounds of appeal
- The LA decision letter
- The LA response to the appeal and any supplementary or amended response
- Relevant correspondence between the parties and the Tribunal
- Any requests for changes made by parties
- All Tribunal orders
- Any further written submissions made by the parties by order of the Tribunal
- Attendance forms

Part B: EHC plan (no page limit)

- If relevant to the appeal, a copy of the EHC plan under appeal with all appendices listed in Section K.

Part C: Parent or young person's documentary evidence submitted by the final evidence deadline (page limit applies)

- All documents submitted in the original application to appeal
- Relevant professional reports which are not already appended to the EHC plan as listed in Section K
- Relevant correspondence
- Annual Review reports and/or SEN Support plans (Individual Education Plans, Provision Maps) relevant to the issues
- Copies of school/college prospectus, Ofsted reports and SEN Information report
- Any assessment report from requested school/College and offer of a place (if applicable)
- Details of the cost of the proposed educational placement

Part D: LA's documentary evidence submitted by the final evidence deadline (page limit applies)

- All documents submitted in response to the appeal
- Professional reports which are not already appended to the EHC plan as listed in Section K
- Relevant correspondence
- Copies of school/college prospectus, Ofsted reports
- Correspondence consulting with a school/college and other LA if applicable
- Cost of proposed educational placement including transport costs
- Cost of transport to parent/young person's preferred educational placement

Part E: Evidence from both parties relating to health issues if raised as part of the National Trial (page limit applies)

Part F: Evidence from both parties relating to social care issues if raised as part of the National Trial (page limit applies)

Part G: Final working document or agreed list of outstanding issues (no page limit)

Part H: Supplementary Tribunal Bundle (no page limit)

This will include:

- Any documents admitted in the appeal after the final evidence deadline in compliance with a Tribunal order
- Adjournment order
- Additional evidence submitted or admitted after an adjournment order
- Additional documentation following an Upper Tribunal appeal

Preparing the Tribunal Bundle for a disability discrimination claim

Part A: The Core Tribunal Bundle (no page limit)

This should include:

- The parents or young person's notice of claim form and any reasons for appeal or amended grounds of claim
- The RB's response to the claim and any supplementary or amended response
- Relevant correspondence between the parties and the Tribunal
- Any requests for changes made
- All Tribunal orders
- Any further written submissions made by the parties by order of the Tribunal
- Attendance forms

Part B: Parents or YP's documentary evidence submitted by the final evidence deadline (page limit applies)

Part C: RB's documentary evidence submitted by the final evidence deadline (page limit applies)

Part D: Supplementary Tribunal Bundle (no page limit)

This will include:

- Any documents admitted in the appeal after the final evidence deadline in compliance with a Tribunal order
- Adjournment order
- Additional evidence submitted or admitted after an adjournment
- Additional documentation following an Upper Tribunal appeal

Number of pages of evidence

In addition to the core Tribunal Bundle (Part A) and EHC plan plus appendices if applicable in an SEN appeal (Part B), both parties will be automatically entitled to submit a limited number of pages of evidence depending on the type of appeal or claim registered by the Tribunal. This will be taken from the information on the registration form.

The limits for each party are:

Refusal to carry out an EHC Needs Assessment/reassessment appeals 100 pages each party
Refusal to issue an EHC Plan 100 pages each party
Appeal against Section B and/or Section F of an EHC Plan – specification of special educational needs and/or special educational provision 100 pages in total each party
Appeal against Section I of an EHC Plan – educational placement 75 pages each party
Decision to Cease to Maintain an EHC Plan 75 pages each party Plus, if also appealing sections of the EHC plan: Sections B and/or F = 100 pages each party Section I = 75 pages each party
Appeal following Annual Review decision = page limits applicable for Parts/Sections under appeal i.e. Section B, F & I = 100 + 75 = 175 pages each per party or Section B and/or F = 100 pages each per party
Request for the Tribunal to make a Recommendation concerning health issues under the National Trial 50 pages each party

Request for the Tribunal to make a Recommendation concerning social care issues under the National Trial

50 pages each party

Claim of disability discrimination

200 pages each per party

These are the maximum numbers of pages automatically allowed as evidence in the appeal or claim. Most cases will require fewer pages of evidence. The page limits given are not a target numbers of expected pages.

If a party wants to submit more evidence than the page limits set, they must make a request for change explaining why the additional pages are necessary. Where the other party raise an objection to the number of pages submitted after the bundle is produced, then the issue will be considered by the Tribunal panel at the hearing. The party exceeding the limit will have to explain why the additional pages are required and the party objecting should be prepared to explain why they are objecting to additional evidence being submitted and specifically which documents are not necessary.

In preparing the Tribunal Bundle, the LA or RB must include all pages submitted by parents or a young person, even if it is in excess of the automatic page limit.

Numbering

- When the documents are organised as set out above, they should be paginated in **sequential order as a whole Tribunal Bundle**. Any blank pages should also be paginated.
- The Tribunal Bundle should be free from any corporate logos and neutral in presentation.

Index

The LA or RB **must** provide a comprehensive index of the Tribunal Bundle.

For each individual document submitted as evidence this should state in the following format:

Page number	Author + position	Type of document	Date of document
15	Maria Brent-Wood, SENCO	SEN Support Plan	30 September 2017
21	Claire Sunderland LA Educational Psychologist	Assessment report for EHC plan	21 January 2017

Missing or disputed evidence

Parents/young people should use the Bundle index to check that the Tribunal Bundle that they receive contains all the documents that have been submitted to the Tribunal. It is the LA or RB's responsibility to resolve any issues relating to missing or disputed evidence not included in the Bundle and brought to their attention by the other party or the Tribunal. As a last resort, the LA or RB will be required to prepare a supplementary Tribunal Bundle containing the missing evidence and send to the other party and the Tribunal.

Sending the Tribunal Bundle

By the Tribunal Bundle deadline, the LA or RB must:

1. Send the Tribunal Bundle electronically (preferably as a PDF, indexed and tabbed) to the Tribunal's designated Tribunal Bundle mailbox: sendbundles@justice.gov.uk The limit for attachments sent is 14MB. If the Tribunal Bundle exceeds that size it cannot be sent electronically. It may be possible to split the Tribunal Bundle into smaller attachments and to send a series of emails, but the emails **MUST** be marked as part of a series e.g. email 1 of 3, 2 of 3 etc.
2. Parents/young person **MUST** be copied into the email.
3. Send a printed paper copy of the Tribunal Bundle to the parents or young person to arrive by the Tribunal Bundle deadline.
4. The Tribunal will **NOT** send a printed copy to the LA or RB who will remain responsible for printing their own Tribunal Bundle.
5. The Tribunal will print and distribute a copy of the Tribunal Bundle to the Tribunal panel.

Documents submitted after the final evidence deadline

Supplementary Evidence

If further requests are made to the Tribunal, orders issued or evidence admitted into the case **after the final evidence deadline**, these should be included in a supplementary Tribunal Bundle which the LA must send electronically to Tribunal by 12 noon 5 working days before the hearing or by the deadline ordered. The LA must take 5 paper copies of the supplementary Tribunal Bundle to the hearing.

Late evidence

If either party seeks to submit late evidence **after the final evidence deadline**, the application must be made electronically and a copy of the evidence sent electronically to the other party and to the Tribunal. The application will be considered at the final hearing and the party making the application **MUST** take five paper copies to the hearing.

Photocopying facilities are not available at hearing venues and it is therefore the party's responsibility to ensure that there are sufficient copies available to distribute if the application is allowed.

If further evidence is admitted at the hearing this will be recorded in the Tribunal's decision or adjournment notice and the LA must add this to the Tribunal Bundle following the hearing.

Working documents

If your SEND appeal concerns amendments to Section B and F of the EHC plan, then a 'working document' can be used to identify the outstanding issues between parties and any agreement reached between them. The final agreed working document must be sent to the Tribunal electronically by the working document deadline set when the appeal was registered, or as altered by a Tribunal order.

Any working document should be produced in accordance with the latest Working Document Guidance issued by the Tribunal.

If a further revised working document is produced after that date, the LA must send it electronically to the Tribunal and the other party AND bring five paper copies to the hearing. Different versions of a working document should be clearly identified from each other by naming them Version 1 etc.

If at the time of preparation of the Tribunal Bundle the deadline for sending a copy of the final working document has not passed, the LA must bring a hard copy of it duly paginated for inclusion into the Bundle, to the final hearing with five copies for insertion into the Tribunal Bundles of the panel and parties.

As an alternative to using a working document, parties can submit an agreed list of the outstanding issues for the Tribunal to decide, by the working document deadline. Where an appeal is part of the National Trial and amendments are being requested to the EHC plan concerning Health (Sections C and G) or Social Care (Section D and H) these can also be recorded in the working documents.

Adjourned hearings

If the hearing is adjourned to be completed on another day, the LA or RB must provide a Supplementary Tribunal Bundle which will contain any additional documentary evidence ordered in the adjournment notice and any evidence not already contained in the original Tribunal Bundle. It must be delivered at least 10 working days in advance of the adjourned hearing date, unless otherwise directed by the adjournment notice.

Non-Compliance with the Tribunal's directions

If the Tribunal Bundle is not properly compiled, paginated or indexed, then it will be returned to the LA or RB by the Tribunal by email. The LA or RB will be in breach of the Tribunal's direction which will result in their being barred from further participation in the appeal.

However, if when the LA or RB return the Bundle it is then compliant then it may be accepted by the Tribunal.

Manually produced Tribunal Bundles

Where the LA or RB has failed to produce the Tribunal Bundle in compliance with the Tribunal's directions and have been barred from the hearing, the Tribunal's administrative staff will produce a Tribunal Bundle manually. This will not include a Tribunal Bundle index.

Application for permission to appeal following a Tribunal decision

It will be the responsibility of the party making an application for permission to appeal to the Upper Tribunal to make sure that they have a complete copy of the Tribunal Bundle, including any evidence that was accepted at the Tribunal hearing. The master copy of the Tribunal Bundle must be retained by the LA or RB for a period of at least 6 months after the date of the hearing and may be requested for production to the Tribunal in the event of an onward appeal.

If you have any questions or comments on this guidance or Tribunal Bundles please call the Tribunal Helpline on 01325 289350 or email send@justice.gov.uk