



## FREE SCHOOL MEALS

Many disabled children are entitled to free school meals, but struggle to access their entitlement to them because of their disability or medical condition. This guide explains who is eligible to receive free school meals and the legislation that education settings must follow.

This guide includes links to **[four template letters](#)** that you can use to ask the school to provide free school meals in a way your child can access them. Both this guide and the template letters were written by public law and human rights lawyers Alex Rook, Rosie Campbell and Katie Sinclair from Rook Irwin Sweeney and Steve Broach from 39 Essex Chambers, instructed by campaigner Natalie Hay through crowdfunding donations.

### WHAT THE LAW SAYS

Schools have a legal duty to make “reasonable adjustments” to the way free school lunches are delivered. This means schools must seek a different way for a disabled child to access them, if the standard way of delivering them puts the child at a “substantial disadvantage” compared to other pupils. If there is a reasonable alternative way of delivering meals that avoids or reduces the disadvantage, this must happen as a “reasonable adjustment”.

In deciding what is reasonable, the school will take all the circumstances into account, including the cost to the school and the benefit to the disabled pupil.

### ASKING FOR A REASONABLE ADJUSTMENT

If your child is missing out on a free school meal you can ask for a supermarket voucher instead. Use our **[template letters](#)** to do this.

If your request for this reasonable adjustment is refused, you can make a claim of disability discrimination to the SEND Tribunal. If successful, the Tribunal could order the school to amend its policy, to apologise to the pupil, to undertake training, or potentially grant another appropriate remedy. However, the Tribunal cannot award damages.

Find out more about **[disability discrimination in schools](#)** and how to take things further.



### CHILDREN IN RECEPTION, YEAR 1, OR YEAR 2 AT STATE SCHOOLS, ACADEMIES AND FREE SCHOOLS

All children in Reception, Year 1 or Year 2 who are on the roll of (registered at) the education settings below are eligible for free school lunches:

- ***state-maintained school***
- ***academy, or***
- ***free school***

The governing body of the school, academy or free school has a legal *duty* to provide them<sup>1</sup>. This is the case whether your child is being educated at school or elsewhere, including at home.

Wales is continuing to roll out its universal free school

<sup>1</sup> Section 512 of the Education Act 1996 and The Education (Transfer of Functions Concerning School Lunches etc.) (England) (No. 2) Order 1999


meals offer so that all primary school children in Wales will get free school meals by 2024.

### My child is not receiving free school meals

If your child is on the school roll but is not receiving free school meals, for instance:

- *because they are being educated at home, or*
- *they cannot eat the school meals because of dietary or sensory requirements*

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 Write to the school using [template letter C](#)

### CHILDREN IN YEAR 3 AND ABOVE AT STATE SCHOOLS, ACADEMIES AND FREE SCHOOLS

All children from Year 3 upwards are eligible for free school meals if they are:

- *financially eligible*
- *not older than 16, and*
- *are on the roll of a state-maintained school, academy or free school*

The governing body of the school, academy or free school has a legal duty to provide them<sup>2</sup>.

#### Who is financially eligible?

A child is financially eligible if they or their parent or guardian receives a qualifying welfare benefit. This includes:

- *Income Support*
- *income-based Jobseeker's Allowance*
- *income-related Employment and Support Allowance*
- *Child Tax Credit*
- *Universal Credit<sup>3</sup>, or*
- *support under Part VI of the Immigration and Asylum Act 1999.*

### My child is not receiving free school meals

If your child is on the school roll, not older than 16 and is financially eligible for free school meals but is not receiving them, for instance:


- *because they are being educated at home, or*
- *they cannot eat the school meals because of dietary or sensory requirements*

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<sup>2</sup> Section 512 of the Education Act 1996 and The Education (Transfer of Functions Concerning School Lunches etc.) (England) (No. 2) Order 1999

<sup>3</sup> More information on who is eligible under Universal Credit is in [Department for Education Free School Meals guidance](#)

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 Write to the school using [template letter D](#)

### ALL CHILDREN AT INDEPENDENT AND NON-MAINTAINED SCHOOLS

Currently, if a child (of any age) is on the roll of an independent or non-maintained school, there is no legal duty on either the school or the local authority to provide them with free school meals.

However local authorities have a *power* to do so<sup>4</sup>. This means that they can provide a free school meal, and must consider properly whether to do so. But there is no automatic legal right.

#### What you can do

If your child is in this position and you believe that there are good reasons why the local authority should provide them with free school meals, you can ask the local authority to exercise its power and provide them.

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 If your child is in this position, write to the local authority using [template letter A](#)


If the local authority agrees to use its power to provide free school meals, you can then ask them to make reasonable adjustments (see page 1) such as giving your child a supermarket voucher, if this is needed.

### EDUCATION OTHERWISE THAN AT SCHOOL (EOTAS) - ENGLAND

Where children of any age are in receipt of a package of “education otherwise than at school” (“EOTAS”) which means they are not on a school roll, they are not eligible for free school meals and the local authority has neither a duty nor a power to provide them under the law set out above.

It is possible to ask the local authority to provide your child with free school meals under its ‘social care’ duties under section 2(4) of the Chronically Sick and Disabled Persons Act 1970. This states that local authorities must make necessary arrangements to meet the needs of disabled children in their area, including by providing meals.

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 If your child is in this position, see [template letter B](#)

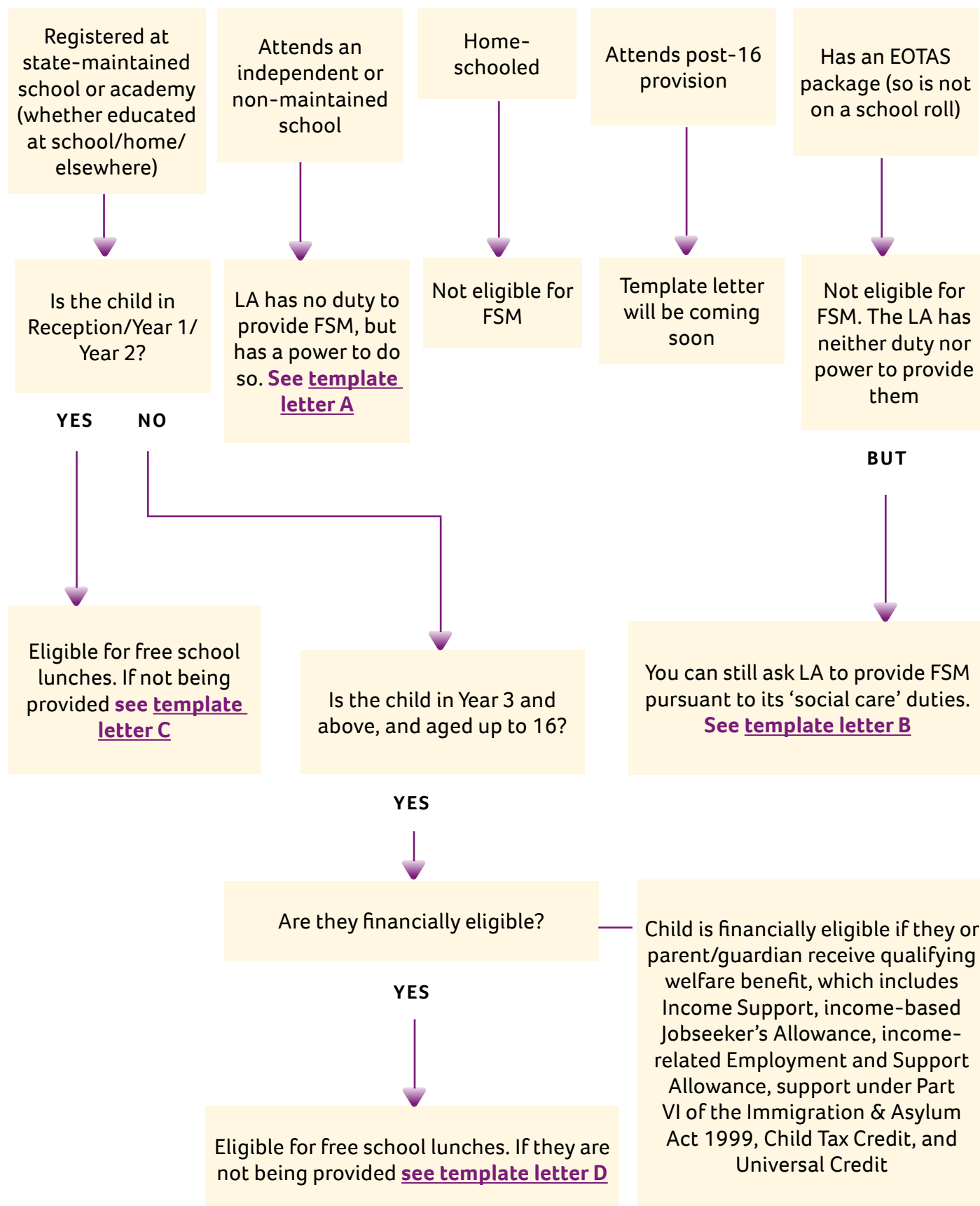
However, it may well be that the local authority refuses to provide meals under this Act. If you get a refusal in your case, legal advice will be needed to decide whether this can be challenged.

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<sup>4</sup> Section 512C(1) of the Education Act 1996

# IS YOUR CHILD MISSING OUT ON FREE SCHOOL MEALS?

## WHAT IS THE CHILD'S EDUCATIONAL SETTING?



## ELECTIVE HOME SCHOOLING

If you have chosen to home-school your child, they are not eligible for free school meals. A legal challenge to this is unlikely to be successful, as the family is choosing voluntarily to educate their child at home, rather than at school where they could receive free school meals (if eligible).


### FURTHER INFORMATION


Contact is proud to support a parent-led campaign aimed at stopping disabled children missing out on free school meals.

Our [free school meals webpage](#) includes more information about the campaign.

Please email [imogen.steele@contact.org.uk](mailto:imogen.steele@contact.org.uk) to let us know if these template emails are successful in getting a reasonable adjustment using the template letters in this guide.

There is also lots of information about getting help for your child [at school](#) and sources of [financial support](#) on our website.

 [contact.org.uk](https://www.contact.org.uk)

 0808 808 3555

### ACKNOWLEDGEMENTS

We would like to acknowledge the following people in the creation of these resources.

Firstly, we are grateful to the public law and human rights lawyers, Alex Rook, Rosie Campbell and Katie Sinclair from Rook Irwin Sweeney and Steve Broach from 39 Essex Chambers for their part in writing this guide and its accompanying template letters.

We would also like to acknowledge everyone who donated to Crowd Justice to support this work and the free school meals campaign.

Lastly, it is only due to the tireless work of the parent-led campaigner and founder Natalie Hay, who has called for inclusivity within the free school meals system since 2021, that these resources exist. Natalie Hay independently decided to raise funds and create a crowdfunding to enable a legal investigation to happen and to cover all legal costs for this campaign (including these template letters).

ROOK  
IRWIN  
SWEENEY



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