

## TRIBUNAL APPEALS

If you disagree with a decision the Local Authority (LA) has made you can appeal to an independent body called the First Tier Tribunal for Special Educational Needs and Disability (SEND). You can only appeal in certain situations and in some appeals you may need to consider mediation first.

Mediation is a way of trying to resolve any issues with the help of an independent person who can help you and the LA to try to reach an agreement. Mediation is free and voluntary and can avoid the need for a tribunal appeal. You do not have to attend mediation before lodging an appeal but you do have to consider it. This means contacting Global Mediation and speaking to an adviser and you must do this within two months of the date on the LA's decision letter. This letter also gives you details on how to contact Global Mediation. If you decide you wish to go ahead with mediation this will be arranged within 30 days and you can still appeal to the tribunal if you are not happy with the outcome of mediation.

You will be issued with a mediation certificate on the date of mediation. If mediation cannot be arranged within 30 days you will be issued with a mediation certificate on the 30th day. If you decide you don't want to use mediation the adviser will issue you with a mediation certificate which confirms you have considered mediation and decided not to go ahead. You do not have to contact Global Mediation and obtain a mediation certificate if you are only appealing the name of the setting in Section I of the EHCP.

You must lodge an appeal within two months of the date of the decision letter or one month from the date of a mediation certificate, whichever is later.

What decisions can I appeal?

- The LA has refused to carry out an EHC needs assessment for your child.
- The LA has refused to issue an EHC Plan after an EHC needs assessment.
- You have received a final EHC plan and you are not happy with:
  - The description of your child's special educational needs in Section B.
  - The description of the special educational provision in Section F.
  - The education setting named in Section I or if Section I only names a type of provision.
- The LA have refused to carry out a reassessment of your child's SEN.
- The LA has refused to amend the EHC plan after an annual review or a re-assessment.
- The LA has decided to cease to maintain (end) your child's EHC plan.

You will need to fill out an appeal form which you can obtain by clicking on the following link: Special Educational Needs and Disability Tribunal forms - GOV.UK ([www.gov.uk](http://www.gov.uk)).

If you are appealing against a decision to not carry out an EHC needs assessment you will need to complete the SEND 35a appeal form. For all other appeals you will need to complete the SEND 35 appeal form.

As part of the appeal form you will be asked to provide your 'reasons for appeal' which sets out why you think the LA's decision is wrong. For cases where you are appealing Sections B and/or F you will also need to include details of why the contents of the EHCP need to change.

You should try to send as much supporting evidence as you can when you submit your appeal form and in your 'reasons for appeal' you should refer to this evidence to support your case. For example, if your child has not made progress despite the support in place you can refer to the annual review records which confirms this. You can send in additional evidence once you've registered your appeal if you don't have everything you need at the time you submit the appeal.

When you submit the appeal form you will also need to send the following:

- A copy of the LA's decision letter
- Your mediation certificate
- Your supporting evidence
- A list of the documents you are sending with the appeal

Don't send the original documents, instead send photocopies or scans. It is also a good idea to keep a copy of everything you send, including the form.

Once you send in your appeal the SEND Tribunal aims to reply within 20 working days and they will send you a registration letter which gives details of the important dates for the appeal. This includes when the LA are required to respond to your appeal, the deadline to send in any further evidence and the date for the hearing. The Tribunal will write to the LA at the same time and they will send them a copy of your appeal paperwork. The LA will then have to submit their response which states whether they are opposing the appeal and if so, why. Any further paperwork you submit after the appeal has been lodged has to be sent to both the SEND Tribunal and the LA and any paperwork the LA submits also has to be shared with you as well as the Tribunal. The LA tribunal team should write to you to acknowledge receipt of the appeal and to confirm their contact details.

If you are obtaining further evidence to support your case, for example an up to date Educational Psychology assessment, and it will not be available until after the evidence deadline you need to let the SEND Tribunal know and you will need to request an extension by completing a Request for Change form ([SEND7 - Request for change \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)).

Before submitting a request for change form you must seek the LA's response and include this on the form. It is possible for late evidence to be submitted after the deadline, including bringing late evidence on the day of the hearing, but it will be up to the SEND Tribunal whether they agree that this can be accepted so it's advisable to request this in advance.

Both parties need to let the SEND tribunal know who will be attending the hearing by completing an Attendance Form (which will be included in the registration letter). You can ask for a witness to attend who is able to give evidence which is relevant to your case. It is normally helpful to have a witness from the school or college (for example the SENCO or Head Teacher) and if you are appealing for a particular school to be named in the EHC plan you will generally need someone from that school to attend. If you are appealing the contents of the EHC plan and there is a dispute over the description of the child's SEN or the level of support needed in Section F it is usually helpful to bring a witness such as a Speech and Language Therapist or Occupational Therapist who has worked with the child.

Witnesses are there to answer questions and are not meant to argue for one side of the other. So, if a witness has been asked to attend by the LA it does not mean they are on the LA's side.

Prior to the hearing the LA will put all the evidence that has been submitted by both sides into a pack known as the bundle. The Tribunal may then refer to a specific piece of evidence within the bundle during the hearing.

Most appeals don't actually get to a hearing as the parties are usually able to come to an agreement in the meantime or the LA agrees to what the parent is asking for. If the LA concedes after they have submitted their response, the LA should draft a document, known as a Consent Order, which sets out what has been agreed and then both parties sign it. It should then be sent to the Tribunal to let them know that the parties have agreed that the appeal can be resolved by consent. This means the hearing does not need to go ahead. The Tribunal will not agree to issue consent orders that are requested within 5 working days of the hearing date and both parties will be asked to attend the hearing anyway. However, this is usually a formality and the hearing won't last very long.

If you have been unable to resolve the outstanding issues with the LA you will be given details of the hearing 10 working days prior to the hearing. At the moment the hearings are taking place via a secure video link and the Tribunal service will send details of how to join. The hearing will involve a panel which is made up of a judge and usually two specialist members who have experience of SEN and disabilities.

After the hearing the SEND Tribunal will send a written decision within 10 working days of the hearing and this will also include their reasons for the decision. If you are unhappy with there are certain limited circumstances in which you can appeal the decision. See the IPSEA website for more details on how to do this:

[Challenging SEND Tribunal decisions | \(IPSEA\) Independent Provider of Special Education Advice](#)