

PARENT/ CARER GUIDE: HOW TO APPEAL AT TRIBUNAL

Information for parents and carers on how to appeal a Local Authority (LA) decision not to assess or issue a EHC plan for your child.

Also, your right to appeal sections B, F and I of your child's plan following an annual review or ceasing of your child's Education, Health and Care Plan (EHC).

In the decision letter it will state that you have the right to appeal.

Before you appeal, you must obtain a mediation certificate. A certificate is issued if:

- A mediation adviser has provided information and advice to you about pursuing mediation and you have informed the mediation service that you do not want to pursue mediation or
- You have undertaken mediation

If you are only appealing the educational placement,

you do not need to obtain a certificate. The details of the mediation service you can contact will be on the decision letter from the LA which informs you of your right to appeal. To appeal to tribunal, you need to complete a SEND 35A form for refusal to assess or SEND 35 for any other appeal. On the form put your reasons for appealing and tick the boxes to indicate which parts of the EHC plan you are appealing or whether you are appealing the decision not to assess or issue a plan or the decision to cease to maintain the plan. Attach any useful documents such as education or health reports to support your case.

For refusal to assess appeals, unless you tick to request an oral hearing it will be dealt with on papers only.

You must send in the form within 2 months of the decision letter you received from the LA. If you choose to have a mediation meeting, you will have one month from the date of that meeting; this will be added to the 2 months above.

After submitting the SEND 35/35A (you can get these forms online from SENDIST) the Tribunal will set a timetable for your case and inform the LA of your appeal.

If you need assistance with your appeal contact, AskUs Notts, Special Educational Needs and Disabilities Information Advice and Support Services (SENDIASS) or Independent Provider of Special Education Advice (IPSEA) free for advice. Alternatively, you can use a SEN Advocate Solicitor.

The Timetable from Tribunal will set out the following dates:

1. **Date for the Local Authority to respond to the Appeal.** On this date LA must inform you and the Tribunal of the reasons why they oppose the appeal.
2. **Final Evidence Date.** All the evidence you seek to rely on at Tribunal must be submitted by this date. If you cannot submit all your evidence by this date you must inform the Tribunal and the LA.
3. **Attendance Form date.** Date by which you and the LA must send their completed Attendance Form to the Tribunal
4. **Date for submission of the hearing bundle.**
5. **Hearing Date.** This is the date your case will be heard.

The length of the tribunal process from first application to final hearing, can vary but will usually take approximately 6 months in total.

If at any point during this process you need to change the timetable, or you need to make any other changes, you can ask the Tribunal to do this by completing the SEND 7 form (from SENDST). Before sending the SEND 7 to tribunal you must also send it to the LA to get their views.

If you are appealing sections of the EHC plan, it will be converted to the 'working document'. On this document there is a key at the front explaining how you can make amendments. You can amend each section with the wording you want to describe your child's needs and provision. You can also name the placement you want.

The LA will then decide if they agree with the amendments. Anything that cannot be agreed will be decided upon by the Tribunal. You will also receive a bundle with all the documents you and the LA will rely on in evidence at the Tribunal.

Since the start of Covid, Tribunal hearings have been held online via a virtual hearing; in the future this may change to face-to-face hearings at court.

Either way, throughout the hearing itself, you can expect to be asked questions by the SEND Tribunal, the LA's representative, and your representative if you've chosen to have one. The Tribunal will consist of 2 or 3 panel members, including 1 Judge and an expert in SEND related matters.

You do not find out the decision at the hearing; instead, a written decision on your case should be sent to you within 10 working days of the hearing taking place.

ICDS contact details:

Tel: 0115 804 1275

Bassetlaw and Newark & Sherwood areas:

icdsehcBandNSlocality@nottsc.gov.uk

Mansfield and Ashfield areas: icdsehcMandAlocality@nottsc.gov.uk

Broxtowe, Gedling and Rushcliffe areas: icdsehcBGRlocality@nottsc.gov.uk

Post 16: icdsehcpost16@nottsc.gov.uk



philipmartin.info