

Guidance for parents and young people relating to a local authority decision not to carry out an Education, Health and Care (EHC) needs assessment Disagreement Resolution Services, Mediation, First-tier Tribunals

This guidance sheet provides information on what you can do if you disagree with the Nottinghamshire County Council multiagency EHC panel decision to not undertake an EHC needs assessment.

Please note that the County Council has commissioned an external provider to deliver independent advice and support, whether you need general advice, or access to the Disagreement Resolution Service or Mediation Services. The contact details for the provider, Global Mediation Ltd, are at the end of this information sheet.

What do I do if I disagree with the LA's decision not to carry out an EHC needs assessment?

Disagreement Resolution Service (DRS)

Disagreement resolution arrangements cover all children and young people with special educational needs (not just those within EHC processes). DRS is available to parents and young people to resolve disagreements about SEN provision. It can provide a quick and non-adversarial way to resolve disagreements and can prevent the need for mediation and appeals to a First-tier Tribunal.

Parents or young people can use DRS to resolve 3 types of disagreement or to prevent them from escalating further, i.e.:

- between parents or young people (whether they have an EHC plan or not) and a local authority, governing body or proprietor of an education setting, about their education, health and care duties for children and young people with SEN. These include the duty on governing bodies and proprietors to use their best endeavours to meet children and young people's SEN
- between parents or young people (whether they have an EHC plan or not) and education settings about the special educational provision made for a child or young person
- between parents or young people and CCGs or LAs about health or social care provision during EHC processes, including while waiting for Tribunal appeals

Mediation and Appeals to the First-tier Tribunal

When local authorities make certain decisions about the education and/or training of a child or young person with special educational needs and/or a disability (SEND), there is a right of appeal to the First-tier Tribunal. If the decision concerns a child, it is the parent who has the right of appeal. If the decision concerns a young person, then it is the young person who has the right of appeal.

Further advice on how to 'appeal an education, health and care (EHC) plan decision' is available at the www.gov.uk website

As a parent or young person, do I have to consider mediation?

You have the right to request mediation under section 53 (health care issues) or 54 (educational or social care issues) of the Children and Families Act 2014.

Before you can register an appeal with the First-tier Tribunal, against the local authority's decision not to carry out an EHC needs assessment, you must contact a mediation advisor.

How do I appeal a local authority's decision to not proceed with an EHC needs assessment?

If you wish to appeal the LA's decision, you need to contact Global Mediation Ltd. You will need to inform them:

- (i) if you wish to pursue mediation, and
- (ii) the mediation issues (including health care & social care provision)

Global Mediation will inform the LA if you wish to pursue mediation.

You will need to obtain a certificate to demonstrate and evidence that you have considered mediation prior to lodging a formal appeal. This is in accordance with section 55(4) or 55(5) of the Children and Families Act 2014. The First-tier Tribunal will not accept an appeal about this decision without a certificate.

How do I get a certificate?

Certificates are issued by a mediation advisor. The mediation advisor will offer the following services:

- advice, support and guidance about the First-tier Tribunal appeal process
- how mediation services can be accessed
- details of how to access mediation services in Nottinghamshire

How do I find a mediation advisor?

Nottinghamshire residents are able to access independent mediation advice and guidance through *Global Mediation Ltd*. Global Mediation Ltd operate a Freephone telephone advice line and can be contacted on the following number: **0800 064 4488**

What happens once I have contacted a mediation advisor?

Once you have received mediation advice it is your decision whether you want to try mediation before making any appeal to the First-tier Tribunal. Global Mediation Ltd can make the necessary arrangements, should you decide that you do wish to proceed with mediation.

Do I have to enter into mediation with the local authority?

You are not required to enter into mediation with the LA. If you decide that you do not wish to enter into mediation, you will be issued with a certificate by Global Mediation Ltd, confirming that you have received advice and guidance from them, *within 3 working days*, so that you can then register an appeal with the First-tier Tribunal service.

What happens if I agree to mediation?

If you decide to enter into mediation, Global Mediation Ltd will make the necessary arrangements for mediation to start.

Can I still appeal if I remain unhappy following mediation?

If, having entered into mediation, you still wish to appeal the local authority's decision, Global Mediation Ltd will issue you with a certificate so that you can register your appeal.

How long do I have to register an appeal?

If you wish to appeal against the local authority's decision, you should lodge your appeal within **two months** of when the local authority sent the decision letter, or within **one month** of the certificate being issued to you (whichever is the later). It is dependent on the discretion of the Tribunal whether they will accept appeals outside of these timeframes. It is therefore important, should you wish to register an appeal, that you make contact with Global Mediation Ltd as soon as possible.

Further information and advice

Global Mediation Ltd can be contacted for DRS, mediation or advice on 0800 064 4488, or via email on sen@globalmediation.co.uk

Further information about disagreement resolution services, mediation and appeals is available on the Local Offer website: www.nottinghamshire.sendlocaloffer.org.uk

When on the Local Offer front page, click on the pink 'Education' box. Then click on the pink 'Education, Health and Care (EHC) Plans' box. From the list of headings in green, select the 'If the Local Authority decide not to issue an EHC Plan'. There is a link on this page to 'How to Resolve a Disagreement'. Click on this link. This will take you to the 'How to Resolve a Disagreement' page which contains information about Disagreement Resolution Services, mediation and appeals to the First-tier Tribunal, as well as associated downloads and external links.

Information, advice and support is also available on the 'Ask Us Nottinghamshire' (formerly the Parent Partnership Service) website www.askusnotts.org.uk or you may wish to contact them for independent advice and support by telephone: **0800 1217772** or email: enquiries@askusnotts.org.uk

Further advice on making an appeal to the First-tier Tribunal is available at www.gov.uk