

What you can do if you disagree with decisions

If you are not satisfied with either a local authority's decision not to assess your child for an EHCP, OR not to provide an EHCP after a statutory assessment, you can appeal to the SEND Tribunal.

Appealing to Tribunal can be done in the name of the parent or the child/ young person. Additionally, if you are not satisfied with any of the needs or provision or placement offered in a new EHCP, you can also appeal (but only to SEND Tribunal for the education part). Despite the health provision being a legal duty, there is, at present, no single pathway to the appeal process.

For both health provision and social care complaints about provision in an EHCP, you must use the relevant complaints process for that provider. If you are still not satisfied, you can contact the health or social care ombudsman

Remember that at any point, if you can't agree on any aspect of the plan, you can ask to take part in disagreement resolution. This is in ADDITION to any mediation or appeal

To appeal, you have two months after the local authority's decision You can register an appeal and take part in mediation at the same time

Before appealing about

1. Refusal to assess,
2. Refusal to issue an EHCP, OR
3. The SEN part of an EHC plan

you **must** first contact a mediation advisor. The LA must inform you about how to do this*. The mediator will give you evidence that you have done so. You will be encouraged to participate in mediation, however, this is not compulsory if you feel that mediation will not work. If at all possible, keep the lines of communication open - you can still reach an agreement that works for your family at any time up to the date of Tribunal.

* If your appeal is only about placement aspects, you do not have to seek mediation first

All decisions where there is no appeal right to the Tribunal can be challenged via judicial review. Families will need legal advice in relation to judicial review and legal aid may be available to pay for this.

If you do decide to head for tribunal, there are free sources of legal advice to help such as IPSEA <http://bit.ly/ipsea-SEN> and Contact A Family SEN line <http://bit.ly/CAF-SEN>

Full details can be found in Chapter 11 of the SEND Code of Practice