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If you disagree with a statutory decision

Last Modified May 17, 2023



There are three main ways to make an appeal if you disagree with a statutory decision.

We would like to hear from you as soon as possible to try to resolve any issues at an early a stage as possible.

We would always hope that opportunities would be taken to resolve any differences informally by working with you throughout the process and being available to discuss any issues as they arise.

- In the first instance, please contact the SEN Officer named on the letters you have received from us. They will try to resolve any issues with you
- If you still feel that you have not been able to resolve issues you can get free independent advice or progress issues by means of mediation
- After this you can appeal to the SEN and Disability Tribunal

From the end of Year 11 (age 16 years) young people will take precedence in being able to make an appeal if they have the mental capacity to do so.

Contact the named SEND officer

We would initially encourage you to contact the named SEN Officer to discuss any issues (or school if you do not have contact with the council SEN team). Mediation can be offered if we cannot resolve difficulties, and the SEN and Disability Tribunal can make a ruling if the issues can still not be resolved.

It is important that communication is clear and open so you can understand how to make your views known and what to do if agreement cannot be reached.

If you are not sure who this contact the SEND team:

email: send@blackpool.gov.uk

Tel: 01253 477602

Obtain independent advice

Blackpool Special Educational Needs Disability [Information Advice and Support Service](#),

Provide independent advice and support free of charge

[IPSEA](#)

Also offer advice and support to parents of children with special educational needs and disabilities.

You also have the right to make a complaint to the college, school, nursery, council or health services.

There are more formal arrangements in place should we have not been able to resolve issues. Disagreement resolution and mediation services are available if this is the case. Parents and young people (over the age of 16) can make their own decisions and access these services, which are free of charge, if they wish to.

Disagreement resolution

If you require mediation to resolve any issues before going to tribunal, please contact

Community Accord

Telephone [01274 223 313](tel:01274223313)

Email info@communityaccord.com

Disagreement resolution is intended for young people or parents of children with special educational needs or disabilities, whether or not they have an Education Health Care (EHC) Plan. It allows everyone to come together to discuss matters and explore possible solutions. Both parties come to the meeting voluntarily with a view to reaching an amicable agreement. It can cover the following areas:

- How duties for SEN are being carried out with health/the council
- How the education provider is making provision
- About provision whilst an assessment is occurring
- With the council/health about the drawing up of an EHC Plan.

Mediation

When does mediation apply?

Mediation applies where a child's parent or a young person intends to appeal to the First-Tier Tribunal (Special Educational Needs and Disability) about a decision made by the local authority or the content of an EHC Plan. If you wish to appeal to the First-Tier Tribunal (Special Educational Needs and Disability) you must consider mediation before you register an appeal with the tribunal.

You do not have to contact the mediation adviser if you only want to appeal to the Tribunal about:

- The school or other institution named in the plan
- The type of school or other institution specified in the plan
- The fact that the plan does not name a school or other institution

What can be discussed?

Matters which can be discussed in mediation before possibly going to Tribunal include:

- The local authority's decision not to carry out an EHC assessment at the initial request stage or a reassessment.
- The local authority's decision not to issue an EHC plan following an assessment
- The description of the young persons or child's special educational needs as described in Section B of the EHC Plan
- The special educational provision described in Section I of the EHC Plan
- The local authority's decision to cease to maintain a Statement of SEN or an EHC Plan

What happens once you have contacted the mediation adviser?

Following a discussion with the mediation adviser, you can then decide whether mediation is a suitable way forward. If you do not wish to participate in mediation before going to tribunal (see next section) you must obtain a certificate from a mediation adviser. The certificate will be issued within 3 working days of informing the mediator of your decision. This certificate can then be sent to Tribunal to register an appeal, to demonstrate you have been offered mediation and decided not to pursue this.

If you do decide to proceed with mediation, then a meeting will be arranged within 30 calendar days at a neutral, accessible venue. Any agreements reached during the meeting will be recorded and signed by both parties. The mediator will then produce a certificate within 3 working days of the mediation taking place, regardless of the outcome.

If the mediation does not fully resolve the disagreement and you still wish to appeal to the Tribunal, the certificate must be sent to register the appeal within one month of receiving the certificate or within two months of receiving the original decision letter from the local authority, whichever is the later. Going to mediation does not affect your right, subsequently, to appeal to the Tribunal.

If you still feel that you have not been able to resolve issues by means of mediation, you can appeal to the SEN and Disability Tribunal. Before doing so, you must have been offered mediation. A young person, from the post statutory school age, up to the age of 25 years, and providing they have the mental capacity to do so, will make the appeal. All other appeals will be made by the parent/carers.

Appeals can be made for the following reasons:

- The local authority's decision not to carry out an EHC assessment at the initial request stage or a reassessment.
- The local authority's decision not to issue an EHC plan following an assessment
- The description of the young persons or child's special educational needs as described in Section B of the EHC Plan
- The special educational provision described in Section I of the EHC Plan
- The local authority's decision to cease to maintain a Statement of SEN or an EHC Plan

Single route of redress

The government extended the powers of the First-tier Tribunal (SEND), sometimes referred to as the SEND Tribunal, to make non-binding recommendations about the health and social care aspects of Education, Health and Care (EHC) plans. This gives you the opportunity to raise all your concerns about an EHC plan in one place.

It is only possible for the Tribunal to consider the health and/or social care aspects of the EHC plan where you are already making an appeal in relation to the education aspects of the EHC plan and the education aspect must remain live throughout the appeal.

What does this mean for parents and young people?

If you are unhappy with a decision not to issue an EHC plan, or with the special educational content or placement in the plan, you can make an appeal to the SEND Tribunal. This now gives you the opportunity to also request recommendations about the health and social care content of the plan at the same time. This will mean the Tribunal will take a more holistic, person-centred view of the needs of the child or young person. This does not prevent you also complaining about other aspects of your disagreement through other complaint procedures. You should seek advice about the different routes available, including from your local Information Advice and Support Service (IASS).

If the SEND Tribunal makes a recommendation about health or social care elements of an EHC plan, this is non-binding. The local authority and/or health commissioner is generally expected to follow such recommendations, but they are not legally binding. Where they are not followed, the reasons for not following them must be explained and set-out in writing to you and to the Department for Education through the evaluators. If they are not followed, you can complain to the Local government and Social Care Ombudsman (LGSCO) or Parliamentary or Health Service Ombudsman (PHSO) or seek to have the decision judicially reviewed. Further information on the roles of these bodies can be found on their websites.

When can a parent or young person request recommendations about the health and social care elements of an EHC plan?

You can request the Tribunal makes recommendations about the health and/or social care aspects of EHC plans as part of an appeal relating to:

- the description of the child/young person's special educational needs in an EHC plan
- the special educational provision specified in an EHC plan
- the school or other educational institution named in an EHC plan
- a decision by the local authority not to issue an EHC plan
- a decision by the local authority not to carry out a re-assessment for a child/young person who has an EHC plan
- a decision by the local authority not to amend an EHC plan following a review or re-assessment
- a decision by the local authority to cease to maintain an EHC plan

What does this mean for local areas?

The council needs to:

- Inform parents and young people of their new rights through decision letters and the local offer
- Provide evidence to the Tribunal from the health and social care bodies in response to any issues raised within the timeframe set by the Tribunal, seeking permission to bring additional witnesses to the hearing as necessary
- If a recommendation has been made, send the health and social care response letters to the evaluators at SENDletters@IFFResearch.com.

It also places responsibility on health and social care commissioners to:

- Respond to any request for information and evidence within the timeframe set by the Tribunal
- Send a witness to attend the hearing as required
- Respond to the parent/young person and the LA SEND team within 5 weeks of a recommendation being made, setting out the steps they have decided to take or giving reasons why they are not going to follow the recommendation.

How can a parent or young person request a health or social care recommendation?

If you wish to appeal against a local authority decision on any of the grounds above and want to request that the Tribunal considers your concerns about the health and /or social care aspects of the EHC plan, you should follow the normal process for bringing an appeal to the Tribunal and tick the box on the form relating to a health and/or social care appeal. Advice on making SEND appeals to the Tribunal and the appeal form is available on the Gov website and further guidance can be found in the [toolkit](#) of support.

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

Before you can register an appeal with the Tribunal, you must contact a mediation adviser within two months of the LA decision you wish to appeal and consider whether mediation might be a way to resolve your disagreement with the LA. If you want to appeal only about the school or other institution named in the EHC plan you do not have to contact a mediation adviser. You can go to mediation about the health and social care elements of an EHC plan, but this is not compulsory. You can request recommendations about health and social care issues without having to receive mediation advice or attend mediation about those issues, provided there is also an education issue about which you are appealing.

Once a mediation adviser has been contacted, or once you have taken part in mediation, you will be issued with a certificate. This will be necessary if you are still unhappy and wish to progress to an appeal with the Tribunal. An appeal to the Tribunal must usually be made within two months of the decision about which the appeal is being made or one month following the issuing of the mediation certificate, whichever is the later. If mediation resolves the educational issues, you will not be able to appeal to the Tribunal on any health and/or social care aspects of the EHC plan. However, mediation provides an opportunity for us to resolve disagreements and it can be completed more quickly than an appeal. It does not affect your right to make an educational appeal, and some aspects of the disagreement can go to appeal even when other aspects are resolved.

Further Information and appeal forms

Further information about the [appeals process](#)

The appeal must be submitted no more than two months from the date of the Local Authorities decision letter, or within one month of the date of the mediation certificate if later.

When completed, forms must be sent to:

HM Courts and Tribunals Service
Special Educational Needs and Disability Tribunal
1st Floor, Darlington Magistrates Court, Parkgate, Darlington DL1 1RU

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Blackpool Council

Municipal Buildings
Corporation Street
Blackpool
FY1 1NF

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