

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 EHC plan, OR not to provide an EHC plan 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 EHC plan, 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 EHC plan, 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 when you have a certificate from the mediator. If you choose to go to mediation and it fails, you will have a minimum of a month after that to register an appeal.

Before appealing about

1. refusal to assess,
2. refusal to issue an EHC plan, or
3. the SEN part of an EHC plan

you must first contact a mediation advisor. The local authority 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 the 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.

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