



RIGHT OF APPEAL TO THE SEND TRIBUNAL

This information sheet has been put together to provide you with some basic information on when you have a Right of Appeal to the Special Educational Needs & Disability (SEND) Tribunal and timescales.

RIGHT OF APPEAL TO THE SEND TRIBUNAL

The information on this sheet is taken from the [SEND Code of Practice 2015](#):

It would be helpful to read the following WIASS Information Sheets alongside this one for further information at: wiass.org.uk

- Education, Health and Care Needs Assessments
- EHC Plans and Looking through a draft EHC Plan
- Annual Review of an Education, Health and Care (EHC) Plan

■ What does a Right of Appeal to the SEND Tribunal mean?

If you disagree with a decision made by the Local Authority (LA)/ Council about an Education, Health, and Care (EHC) Needs Assessment request, or, Education, Health, and Care (EHC) Plan, you may have the right to appeal to the Special Educational Needs and Disability (SEND) Tribunal.

■ What is the SEND Tribunal?

The SEND Tribunal is an independent, national organisation that considers disagreements about certain decisions made by the LA/Council, relating to Education, Health and Care (EHC) needs assessment requests and EHC Plans.

It is separate from the LA/Council and reviews whether decisions have been made in line with the law.

If your child is a young person (aged 16-25), they can also lodge an appeal to the tribunal with or without you, about the LA/ Council decision about their EHC Needs Assessment or EHC Plan.

The tribunal also hears claims of disability discrimination against schools.

■ Reasons Why You May Decide to Appeal

You may have a right of appeal if the LA/Council decides not to:

- Carry out an EHC Needs Assessment.
- Carry out an EHC Reassessment (where an assessment has not been completed within the previous six months).
- Issue an EHC Plan following an EHC Needs Assessment.
- Maintain an EHC Plan (cease or end the EHC Plan).
- Amend an EHC Plan following an Annual Review.

You may also appeal if you disagree with the contents of an EHC Plan, including:

- Section B - the description of your child or young person's Special Educational Needs (SEN).
- Section F - the Special Educational Provision (support and help) your child or young person **should** receive.
- Section I - the educational placement named in the EHC Plan (for example, a nursery, school, college or training provider), or where no specific placement has been named and only a type of setting has been specified.

Health and Social Care Recommendations (Sections C, D, G, and H)

Where you or your young person are appealing Sections B, F or I, you can also ask the Tribunal to make recommendations about:

- Section C (Health Needs)
- Section D (Social Care Needs)
- Section G (Health Provision)
- Section H (Social Care Provision)

The Tribunal's decisions on educational matters are legally binding. Recommendations relating to health and social care are not legally binding but are usually followed by the relevant services. [ipsea.org.uk]



RIGHT OF APPEAL TO THE SEND TRIBUNAL

■ Appeal Timescales

You have two months from the date on the LA/Council decision letter to lodge an appeal with the SEND Tribunal.

The SEND Tribunal **must** receive your appeal by the deadline.

If your appeal is submitted late, you can request that the Tribunal accept it, but you will need to explain the reasons for the delay.

Your LA decision letter should include:

- Information about your right to appeal.
- The deadline for appealing.
- Contact details for the Independent Mediation Adviser.
- Information about disagreement resolution services.

Details of where to obtain information, advice, and support - contact us via our website: wiass.org.uk.

■ Considering Independent Mediation

If you are thinking about appealing to the SEND Tribunal, you will need to contact an Independent Mediation Adviser. In Wandsworth it is provided by Global Mediation.

Their contact details will be included in the LA/Council's decision letter.

The adviser will explain the mediation process to you, and discuss whether mediation may help resolve the disagreement.

After speaking to the mediation adviser, you can choose whether to go ahead with mediation or instead request a mediation certificate so that you can appeal to the SEND Tribunal, if you decide to.

If you decide to appeal without going to mediation, your deadline to appeal is two months from the date of the LA/Council decision letter or one month from the date of the mediation certificate, whichever is later.

The mediation adviser will issue a mediation certificate within three working days of you telling them that you do not want mediation or following a mediation session.

If you choose Independent Mediation

If you decide to take part in mediation, and the LA/Council is unable to take part in a mediation session within 30 days of being informed that mediation has been requested. They **must** let the mediation advisor know.

The LA/Council is required to participate in the mediation process.

If the disagreement is not resolved, a mediation certificate will be issued. This allows you to continue with an appeal to the SEND Tribunal.

You do not need to consider mediation if your appeal relates only to Section I of the EHC Plan (the nursery, school, college or other educational setting named in the EHC plan).

■ Appealing to the SEND Tribunal

If you decide to appeal, you will need to submit the appropriate appeal form to the SEND Tribunal.

For most appeals, you will also need to provide a mediation certificate.

Appeals can usually be submitted online, by email or by post.

Once your appeal has been registered, the SEND Tribunal will write to you with information about what happens next, including any deadlines, actions required and, where applicable, details of your hearing.



RIGHT OF APPEAL TO THE SEND TRIBUNAL

■ What is a Tribunal hearing?

A Tribunal hearing is where an independent panel considers your appeal. The panel is made up of a Judge and at least one specialist member with experience of special educational needs and disabilities.

The panel will consider the evidence before making a decision.

For detailed guidance on registering an appeal, gathering evidence, preparing for a hearing, and understanding the Tribunal process, please refer to our Right of Appeal to the Special Educational Needs and Disability (SEND) Tribunal Checklist, available on our webpage:

[wiass.org.uk/parents/challenging-decisions-and-appealing](https://www.wiass.org.uk/parents/challenging-decisions-and-appealing)

■ Please note

- Appeals about the EHC Plan are usually held online, although you can request an in-person hearing
- Refusal to start an EHC Needs Assessment appeals are held as paper hearings.

For more information on Appealing and Mediation please follow the link to the [IPSEA website](https://www.ipsea.org.uk) or contact us to discuss further.



■ How to contact us:

Helpline number: **020 8871 8065** (24 hour answer machine)

Email: wiass@wandsworth.gov.uk

Web: [wiass.org.uk](https://www.wiass.org.uk)