



## 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](http://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 SENDIST mean?

If you do not agree with a decision made by the Local Authority (LA) about an EHC Needs Assessment or EHC plan, you can appeal to the SEND tribunal (SENDIST).

## ■ What does the SEND Tribunal do?

This is an Independent National Tribunal which hears your appeal against Local Authority's (LA) decision about your child's EHC Needs Assessment or EHC plan.

Young people (aged 16-25) with SEND can also lodge an appeal to the tribunal with or without their parents, about a decision/s the LA has made about their EHC Needs Assessment or EHC plan.

The tribunal also hears claims of disability discrimination against schools.

## ■ Reasons for Appealing

**You can appeal if the LA decides not to:**

- Start an EHC Needs Assessment or
- Reassessment (if the LA has not carried one out in the last six months)
- Issue an EHC Plan after completing an EHC Needs Assessment
- Cease to maintain (end) the EHC plan.
- Amend (make changes) the EHC plan following an Annual Review of an EHC Plan

**Or you do not agree with what is written in the EHC plan,**

- Section B- A description of your child's or young person's Special Educational Needs (SEN)
- Section F – the SEN Provision (support/help) they must receive

- Section I – You disagree with the name of the education setting (for instance, nursery, school, college or training setting) or the LA has not named one in the EHC plan. Instead the LA has written, for example, "A day mainstream school or college or "A day SEN school or college for children with Autism"

\*You or your young person, also have the right to request recommendations about Section C (Health needs), Section D (Social Care needs), Section G (Health provision) and/or Section H (Social care provision), if you appeal Section B, F and or I.

## ■ Important Information:

You have **two months** to lodge an appeal from the date on the decision letter you receive from the LA. This means the SEND Tribunal **must** receive your completed appeal application form, by the deadline date.

The LA decision letter should have the following information:

- **Your right to appeal the decision**
- **\*Your time limits to appeal**
- **Information & contact details about the Independent Mediation Adviser**
- **Information on Disagreement Resolution Services**
- **Where to go for Information, Advice and Support (WIASS)**

\*If you miss your deadline date to appeal, you can request that the SEND tribunal accept your appeal late. There is a section on the appeal form where you can explain why your application is late.

If you and your young person are thinking of appealing to the SEND Tribunal, you will first need to speak to the Independent Mediation Adviser (their details will be on your decision letter) to discuss whether mediation might be a better way to resolve what you do not agree with. **This does not mean you have to take part in Independent mediation when you speak to the mediation advisor.**

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The only time you **do not have to consider Independent Mediation**, is when you are thinking of only appealing Section I (name the nursery, school, college or a training setting on the EHC plan).

## ■ Independent Mediation

If you decide that you would like Independent Mediation, this **must** be requested within your **two month** appeal deadline.

Usually the Mediation Advisor will contact the LA to set up a mediation session.

The LA **must** ensure that a mediation session is arranged within **30 days** of the Mediation Adviser informing them that you want Independent Mediation. The LA **must** take part in Independent Mediation.

If the LA is unable to arrange a mediation session within the **30 days** of being informed, then they must let the Mediation Advisor know. The Mediation Advisor should then issue you with a mediation certificate within **three days** of being informed by the LA of this.

**Your deadline to appeal is two months from the date of the LA Decision letter or one month from the date of the mediation certificate, whichever is later.**

## ■ Appealing

If you decide you want to appeal, you will need to tell the Mediation Advisor, who will then issue you with a Mediation Certificate within **three working days** of you telling them that you do not want mediation.

Once you have received your mediation certificate, you will need to complete and send the Appeal Application form to

the SEND Tribunal (they usually ask you to do this by email. If you do not have an email account, you can send it by post)

**Please follow the links below to download the appropriate Appeal Application form:**

- [Refusal to start an EHC Needs Assessment](#)
- [EHC Plans](#)

Once your appeal has been registered(accepted) by the SEND Tribunal, they will write to you (within 10 working days) and explain:

- What will happen next,
- What the LA and you **must** do and by when
- \*The date of the Tribunal Hearing

## ■ \*What is a Tribunal hearing?

This is where the appeal will be considered by a panel: The panel is made up of a Judge and at least one specialist member (someone who has a lot of experience of SEN and Disabilities), who will decide your appeal.

## Please note

- Appeals about the EHC plan are held in person (currently virtually)
- Refusal to start an EHC Needs Assessment appeals are held as Paper Hearings. This means you are not asked to attend in person although you can request to.

For more information on Appealing and Mediation please follow the link to the [IPSEA website](#) or contact us to discuss further.

## ■ How to contact us:

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

Email: [wias@wandsworth.gov.uk](mailto:wias@wandsworth.gov.uk)

Web: [wias.org.uk](http://wias.org.uk)