



Information Advice and Support

Appeal to the Special Educational Needs and Disability Tribunal

This leaflet explains about Appeals and what happens at a Tribunal.



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(SENDIASS)
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**Information,
Advice & Support
Services Network**

**independent
support**

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Information taken from the www.gov.uk website

You can appeal to the First-tier Tribunal (Special Educational Needs and Disability) if you disagree with your local authority's decisions about your child's special educational needs - for example if they refuse to:

- assess your child's educational, health and care (EHC) needs
- make a statement of their special educational needs
- reassess their special educational needs
- create the content of an EHC plan
- change the special educational needs Statement or EHC plan
- maintain the Statement or EHC Plan.

For someone under 18 and in custody, you can appeal if:

- an EHC needs assessment is refused
- the council doesn't think an EHC plan is needed after an assessment
- a suitable school or other setting is refused after their release.

You can also appeal to the tribunal if a school or local authority has discriminated against your child or someone else because of your child's disability, e.g. they haven't provided appropriate support or made reasonable adjustments including the provision of auxiliary aids and services. **Claims must be made within 6 months.**

You must send your appeal within 2 months of the date of the council's decision letter or 1 month from the date of the mediation certificate - whichever is later.

The tribunal is independent of government and will listen to both sides of the argument before making a decision.

The rules are different in Wales.

School Leaving Age explained...

Your school leaving age depends on where you live.

England

You can leave school on the last Friday in June if you'll be 16 by the end of the summer holidays.

You must then do one of the following until you're 18:

- stay in full-time education, e.g. at a college
- start an apprenticeship or traineeship
- work or volunteer (for 20 hours or more a week) while in part-time education or training

Scotland

If you turn 16 between 1 March and 30 September you can leave school after 31 May of that year.

If you turn 16 between 1 October and the end of February you can leave at the start of the Christmas holidays in that school year.

Wales

You can leave school on the last Friday in June, as long as you'll be 16 by the end of that school year's summer holidays.

Northern Ireland

If you turn 16 during the school year (between 1 September and 1 July) you can leave school after 30 June.

If you turn 16 between 2 July and 31 August you can't leave school until 30 June the following year.

Who can appeal

You can appeal as either:

- the parent
- the young person, if you're over the school leaving age and you are under 25

Help you can get:

Before you appeal, see if you can discuss the problem with your local authority.

Check if you can get legal aid to help with your legal costs. You can get advice from Civil Legal Advice if you're eligible.

You can also get free help and advice from IPSEA or your local Information, Advice and Support Service. Contact the Information, Advice and Support Services Network for details of your nearest service.

Information, Advice and Support Services Network

<http://www.iassnetwork.org.uk/>

Telephone: 020 7843 6958

Find out about call charges.

Before you appeal

Before you appeal, see if you can discuss the problem with your local authority.

Contact your local authority and ask for your local special educational needs mediation service.

Mediation is when an impartial person - trained in dealing with difficult discussions between 2 opposing sides - acts like a referee in a dispute.

You must get information about mediation if you're appealing a decision about an EHC assessment or plan and get a mediation certificate signed by the mediation advisor.

You must send your appeal within 2 months of the date on your decision letter or a month from the date of the mediation certificate - whichever is later.

You don't have to use mediation if your appeal is about your child's special educational needs, but it won't affect your right to appeal if you do.

Appeal to the tribunal

The form you need to send depends on what you're appealing.

You must send your appeal within 2 months of the date on your decision letter or a month from the date of the mediation certificate - whichever is later.

You'll usually find out when your hearing is 10 working days after you appeal.

Ask for a new education, health and care (EHC) plan

Download and fill in form SEND1A from <https://www.gov.uk/special-educational-needs-disability-tribunal>. The address is on the form.

You can include details of up to 3 witnesses who you'd like to bring to the hearing.

Other special educational needs (SEN) appeals

You can appeal if the local authority refuses to:

- secure an assessment for your child's education, health and care (EHC) needs
- make a Statement of their special educational needs
- reassess their special educational needs
- create an EHC plan.

You can also appeal to the tribunal if a school or local authority has discriminated against your child or someone else because of your child's disability, e.g. they haven't provided support.

Legislation

The tribunal will make a decision based on:

- Special Educational Needs and Disability Act 2001, Chapter 10

The tribunal follows all of the following practice directions:

- First Tier and Upper Tribunal Child, Vulnerable Adult and Sensitive Witnesses
- Health Education and Social Care Chamber Special Educational Needs or Disability Discrimination in Schools Cases
- Conclusion of the pilot to test the composition of a panel in the First-tier Tribunal (Special Educational Needs & Disability) (FtT-SEND)

The tribunal must follow the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chambers) Rules 2008.

Special educational needs statement appeals

The tribunal must follow the:

- Education Act 1996
- Code of Practice for Special Educational Needs 2001
- Education (Special Educational Needs) (England) (Consolidation) Regulations 2001

Education, Health and Care (EHC) plan appeals

The tribunal must follow the:

- Children and Families Act 2014
- Code of Practice for Special Educational Needs 2014
- Special Educational Needs and Disability Regulations 2014

If you lose your appeal

You may be able to:

- get the decision 'set aside' (cancelled) if you think there's been a mistake in the process - your decision letter will tell you how to do this
- ask the tribunal to 'review' the decision, e.g. if your circumstances have changed since you got the decision or the decision contains a mistake - your decision letter will tell you how to do this
- ask for permission to appeal to the Upper Tribunal (Administrative Appeals) Chamber if the tribunal's made a mistake about the law.

You must do this within 28 days of the date of the tribunal's decision letter.

If you need help

Call or email the tribunal if you have any questions about completing the form. The tribunal can't give you legal advice.

Special Educational Needs and Disability Tribunal

sendistqueries@hmcts.gsi.gov.uk

Telephone: 01325 392 760

Fax: 01325 391 080

Find out about call charges

Download and fill in form SEND24 from <https://www.gov.uk/special-educational-needs-disability-tribunal> if you're the parent. The address is on the form.

Download and fill in form SEND24A from <https://www.gov.uk/special-educational-needs-disability-tribunal> if you're the young person - you must be over the school leaving age be under 25 to apply. The address is on the form. You can include details of up to 3 witnesses who you'd like to bring to the hearing.

Disability discrimination

You can appeal to the tribunal if a school or local authority has discriminated against your child or someone else because:

- of your child's disability
- the local authority hasn't provided something, e.g. they haven't provided support.

Download and fill in SEND4A from <https://www.gov.uk/special-educational-needs-disability-tribunal>. The address is on the form. You can include details of up to 5 witnesses who you'd like to bring to the hearing.

You can also make a claim to tribunal about admissions to independent and non-maintained special schools.

Young people in custody

You can appeal to the tribunal against the local authority's decision if you're a child or young person who is over the school leaving age and under 18 years.

If you need help

Call or email the tribunal if you have any questions about completing the form. The tribunal can not give you legal advice.

Special Educational Needs and Disability Tribunal

sendistqueries@hmcts.gsi.gov.uk

Telephone: 01325 289 350

Fax: 0870 739 4017

Find out about call charges.

What happens at the hearing

The tribunal will hold the hearing at a venue near your home. You don't have to go, but if you do you can ask questions and present the case yourself.

Fill in the attendance form if you want to bring:

- someone to represent you
- someone to support you at the hearing
- witnesses.

You may be asked questions by:

- your legal representative (if you have one)
- the local authority's representative
- the tribunal.

Who'll be at the hearing

The hearing will usually be attended by:

- up to 3 tribunal members
- a clerk
- someone representing the local authority
- expert witnesses.

Both parents can attend.

The tribunal will provide you with an interpreter if you've asked for one. They can translate what happens during the tribunal but they can't represent you or give you legal advice.

Claim expenses

You and your witnesses may be able to claim for travel expenses for going to the hearing. If you bring a friend or relative to the hearing, you'll also be able to claim for their travel costs.

You'll usually get the tribunal's decision within 2 weeks of the hearing.

If you win your appeal

If you win your appeal, the local authority must act on the tribunal's decision within a set amount of time.

Decision	When local authority must act on Decision
Start assessment or reassessment	Within 4 weeks
Make statement or EHC plan of child's needs	Within 5 weeks
Change statement or EHC plan	Within 5 weeks
Change the school or placement in the statement	Within 2 weeks
Continue with statement or EHC plan of child's	Immediately
Cancel a statement or EHC plan	Immediately

You can complain to the Local Government Ombudsman if the local authority doesn't keep to the decision.

Local Government Ombudsman

Enquiry form

Telephone: 0300 061 0614

Find out about call charges

Local Government Ombudsman

PO Box 4771

Coventry

CV4 0EH