**Liverpool and Knowsley SENDIASS**



**Appealing a Local Authority Decision Not to Carry Out an Education, Health & Care (EHC) Needs Re-assessment**

Usually the annual review process will enable changes to be made to an EHC plan so that it remains relevant to the child or young person and their desired outcomes. However, there may be occasions when a re-assessment becomes appropriate, particularly when a child or young person’s needs change significantly. It may be that the child or young person needs more help or a different kind of help, or to attend a different kind of school or college. A local authority may also decide to initiate a re-assessment without a request if it thinks one is necessary. A re-assessment is an opportunity to gather new evidence to work out what support the child or young person now needs.

However, a local authority can refuse a request for a re-assessment if less than 6 months have passed since the last EHC needs assessment was conducted. A local authority may also decide to refuse a request for re-assessment if it thinks that a re-assessment is not necessary, for example because it considers the child or young person’s needs have not changed significantly. The local authority **must** notify the child’s parent or the young person of its decision whether to undertake a re-assessment or not within 15 calendar days of receiving the request. If the local authority decides not to re-assess, it **must** notify the child’s parent or the young person of their right to appeal that decision, and the time limit for doing so, and of the requirement for them to consider mediation should they wish to appeal.

**If the local authority refuses to re-assess then you have a right to appeal that decision.**

The decision letter from the local authority will explain your right to mediation and appeal. The date of the notification is the date from which the time frame for making an appeal starts to run: you must send an appeal form to the SEND Tribunal within **two months** of the date of the decision you are appealing or the final EHC plan, or **one month** from the date you obtain a mediation certificate, whichever is the later (see our appeal process info sheet).

It is always a good idea to continue talking to the local authority about your concerns or any questions that you have. Further information could help you to decide whether to appeal, and if you do decide to then it will help to build your case.

Before appealing you must firstly consider **mediation**; this can prove to be really useful, as it is your opportunity to discuss the local authority’s decision and to present further evidence without going on to tribunal. The local authority may change their decision at this point and agree to re-assess without going on to tribunal.

If, after mediation, matters are not resolved and you decide to pursue an appeal, you must complete the **SEND35** appeal form. This needs to be sent to the tribunal service along with a copy of the mediation certificate and the decision letter within 1 month of the date on the mediation certificate, 2 months from the date of the decision letter, whichever is the longest.

For this appeal you will need to provide supporting evidence to demonstrate one or more of the following:

* Your child's needs have changed
* That the provision is not working and needs changing
* That you believe your child needs another type of school or setting.

The supporting evidence can include:

* Your child/young person's views – this can be a short video
* Your own views
* Progress reports
* Statements from teachers who work with your child
* Medical reports/assessments
* IEP/support plan/pupil passport/provision map
* Home/school diaries
* Assessment/specialist reports
* Exclusion letters/reports
* Letters/emails from setting/local authority/health/specialist/'continuing care assessment'
* Examples of school or homework (can be helpful where rate of progress is in dispute)
* You can request a copy of your child's school record (you will likely be charged for photocopying)
* Second opinion - where you disagree with a professional report or recommendation, where finances allow you could explore private assessment. Where views of professionals differ each is given equal weight at tribunal.

**For further information and advice, contact Barnardo’s SENDIASS:**

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Or visit our website for more useful information:

Or go to: IPSEA <http://www.ipsea.org.uk/>