



## How to appeal an SEN decision

**The aim of the guide is to help you through the appeal process in the First-tier Special Educational Needs and Disability (SEND) Tribunal.**

The SEND Tribunal is part of the system of courts and tribunals which makes decisions in appeals and claims.

SEND Tribunal hears cases which involve:

- appeals against decisions of local authorities about children with special educational needs; and
- claims of disability discrimination by a school against a child (please see the “How to make a claim” booklet for more information).

The guide explains what is involved in making an appeal to SEND Tribunal, step by step.

The staff who administer appeals are called ‘tribunal clerks’. They will handle letters, emails and phone calls and deal with any questions. However, they cannot give legal advice.

### Using the guide

The guide is quite long, because it provides detailed information on each of the stages in the appeals process. It can be used as a manual, checking each step as the appeal progresses, or as a reference, to look up issues as they arise.

Download the appeal form you need from:

For appeals against a LA decision not to carry out an EHC assessment <https://www.gov.uk/government/publications/form-send35a-special-educational-needs-and-disability-tribunal-appeal-a-refusal-to-secure-an-ehc-needs-assessment>

For appeals against all other LA decisions <https://www.gov.uk/government/publications/form-send35-special-educational-needs-and-disability-tribunal-appeal>

## Contact

SEND Tribunal's contact details are:

By phone: 01325 289350

By fax: 0870 739 4017

By email: [send@justice.gov.uk](mailto:send@justice.gov.uk)

In writing to:

First-tier Tribunal Special Educational Needs and Disability  
1st Floor, Darlington Magistrates Court  
Parkgate  
Darlington DL1 1RU

## Section 1 – Making an appeal When can I appeal?

The deadline for making appeals is two months from the date of the letter from the local authority giving their final written decision. You must SEND Tribunal the appeal so that it is received by SEND Tribunal within two months of the date of the letter. If you want to appeal after the two months deadline, if the circumstances are exceptional you can apply to extend the time.

In most cases you will need to consider whether you want to go to mediation before you make your appeal. If you go to mediation or decide that you don't want to go to mediation you will need a mediation certificate issued by a mediation provider before you can make an appeal. You will have two months to request a mediation certificate from the date of the letter from the local authority giving their final decision. The letter must give contact details for a mediation provider. This deadline cannot be extended by the mediation provider. You will then have an additional 30 days from the date of the Mediation certificate to make an appeal to SEND Tribunal.

Even after an appeal has been made, parents or a young person and the LA should continue to try to reach agreement by discussing the case.

## What can I appeal?

You can appeal if the local authority:

- refuses to arrange an EHC assessment of the child or young person's special educational needs, following a request by a child's parents, young person or school, college;
- refuses to issue and EHC Plan for the child or young person after completing an EHC assessment;

- refuses to arrange a EHC reassessment of the child or young person (following a request by the child's parent, young person's or school, college) if the local authority has not carried out an EHC assessment in the last six months;
- decides to stop maintaining an EHC plan;
- decides not to amend the EHC plan following an annual review;
- decides not to change the EHC plan after carrying out an EHC reassessment; or
- has finalised, or has changed a previous EHC plan, and you disagree with one or all of the following.
  - The Section which specifies the child or young person's special educational needs in Section B of the EHC Plan.
  - The Section which specifies special educational provision in Section F of the EHC Plan.
  - The school/college/institution or type of school/college/institution named in Section I of the EHC Plan or type of school named in Section I of the EHC Plan.
  - The local authority not naming a school/college/institution in Section I of the EHC Plan.

## **Are there any issues SEND Tribunal cannot decide?**

SEND Tribunal cannot deal with a case if the issue is:

- the way the local authority carried out the EHC assessment, or the length of time that it took;
- how the local authority or the school or college is arranging to provide the help set out in the EHC plan;
- the way the school or college is meeting your child's or a young person's needs under SEN Support;
- the outcomes in Section E of the EHC plan
- any disputes about the wording of Sections A, J, K of the EHC plan

In terms of the last bullet point, you would first need to ask your local authority to amend the EHC plan at annual review or if that is not for some time, ask the local authority to arrange an interim review of the EHC plan.

- Admissions appeals
- Exclusion appeals unless it involves an allegation of disability discrimination

## Recommendations concerning Health or Social Care

From 3 April 2018 the Tribunal will be able to also consider issues concerning a child or young person's health or social care needs in certain circumstances including Sections C, D, G and H of an EHC Plan. This will only be where an appeal concerning educational issues is being made to the Tribunal. Please see separate Guidance on asking for a Recommendation to be made by the Tribunal [https://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?original\\_id=2063](https://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?original_id=2063)

## Who deals with the issues SEND Tribunal cannot determine?

You should discuss your concerns with the school, college or the local authority. If you are still not happy, you can complain to the Secretary of State for Education. If they agree with your complaint, they may ask the school, college or the local authority to take action to put things right. You can contact the DfE at Email: [SEN.IMPLEMENTATION@education.gov.uk](mailto:SEN.IMPLEMENTATION@education.gov.uk)

You may also be able to complain to the Local Government Ombudsman. You can get guidance on this by contacting the LGO Advice Team on 0845 602 1938 or by writing to:

Local Government Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH

You can also visit their website: [www.lgo.org.uk](http://www.lgo.org.uk)

## Should I appeal?

The guide deals with how to appeal. It cannot advise on the strength of your case. Tribunal clerks can help with phone queries about the appeal as it goes through the process, but cannot give an opinion about whether the appeal is likely to win or lose, or whether or not a particular step should be taken.

## Can I get advice about whether I can appeal?

The local authority should have told you about the following groups that may be able to give you advice.

- A local Information, Advice and Support Service (IASS)
- A voluntary organisation which helps people with special needs
- A parents' or young person's support group
- National Advice Organisations

The local authority should also have told you about its named officer who can work with

you to try and sort out the issues in the appeal.

## **Can I get help if I decide to make an appeal?**

The groups above and the local authority officer may be able to put you in touch with an independent supporter or a representative.

You may be entitled to public funding (Legal Aid) in preparing your appeal. A solicitor will be able to advise you on whether you are entitled to this. The Law Society or your local Citizens Advice (CA) will be able to give you the names of organisations who offer public funding and are experienced in education matters. Public funding for a lawyer to represent you at the hearing is only available if the circumstances are exceptional.

## **What is likely to be involved?**

SEND Tribunal's service is free. Unlike going to court, there are no fees involved. A contribution can be made towards any out-of-pocket expenses you incur from attending the tribunal hearing, such as travel costs.

From start to finish, the process of making an appeal can take up to five months depending on the type of case. Usually, there will only be one hearing where you need to visit the tribunal. Hearings normally start at either 10am or 2pm. Occasionally, in a complicated case, it may need to be adjourned to another day for SEND Tribunal to hear all the necessary evidence.

Preparing the appeal may involve you in gathering evidence to support your case.

## **Section 2 – Starting an appeal**

### **Are there time limits for making the appeal?**

SEND Tribunal must receive the appeal within two months of the date on the letter from the local authority giving you their final decision.

If you miss the deadline, a Tribunal Judge may extend the time for making the appeal but you must ask for the extension by:

- sending SEND Tribunal your completed appeal form as soon as possible; and
- explaining why the appeal is late giving full reasons for the delay and
- explaining why you consider the appeal will be successful and should go ahead even if late;
- explaining why the local authority will not be prejudiced by the late appeal;
- explaining why you should not have to wait for an annual review or ask for another assessment;
- drawing attention to any other matters that you think are relevant.

The Tribunal Judge may allow an extension if there are special circumstances which prevented the appeal being made in time and it is fair and just to do so.

If the Tribunal Judge allows the extension, the appeal will go ahead. If the judge refuses an extension, the appeal will go no further.

There is a right of appeal to the Upper Tribunal against a decision not to extend time, but it can only be made with permission on the ground of an error of law.

## **What are the grounds of appeal?**

You must identify the decision appealed and give the date of the local authority letter giving you the decision.

You must give the reasons for the appeal including the issues that you want the Tribunal to decide. These are the 'grounds of appeal'. The reasons don't have to be lengthy or written in legal language, but need to say more than just, 'I disagree'. Explain why you disagree with the decision and what you would like SEND Tribunal to do.

If you have information or evidence supporting the appeal, enclose it with the appeal.

## **The appeal form**

### **What does SEND Tribunal need on the appeal form?**

**Section 1 Your child** – asks for details of the child.

**Section 2 What are you appealing against** – this is important because this is where you explain why you are appealing.

**Section 3 Your appeal** – asks for information about the Local Authority decision

**Section 4 Your contact details** – asks for your details and the contact details of any representative that you may have

**Section 5 Special Requirements** – asks if you have any special needs in terms of the appeal documentation and the hearing.

**Section 6 Claims about disability discrimination** – asks whether you have an existing disability discrimination claim or if you would like further information about how to make a claim.

**Section 7 Checklist.** Go through the list and tick the boxes to make sure that you have provided all the necessary information.

**Section 8 Signatures** – all parties to the appeal must sign the appeal form. Without signatures, SEND Tribunal cannot accept the appeal.

**Section 9 Sending the appeal** – explains where to send the completed appeal form.

## **What if I don't send all the right information or documents?**

The tribunal clerks may have to contact you about getting the information or documents to SEND Tribunal. If SEND Tribunal does not have the right papers to register the appeal, the appeal form and supporting papers will be returned to you with a list of what else SEND Tribunal requires. The letter from SEND Tribunal will give you 10 working days to send them. If they are received within that time, it will not be necessary to ask for an extension. If they arrive any later than the date you were given, it will be necessary to apply for an extension of time, explain why they are late and why you believe your appeal will succeed.

In some cases an appeal can be registered even if SEND Tribunal does not have all the documents. If that happens, SEND Tribunal will ask you to provide the missing documents within 10 working days. If they are not received within that time, the appeal may be struck out. The appeal will then be at an end.

## **Do I have to send original documents?**

No. Only send photocopied documents and keep the original documents yourself.

Please ensure that all documents which you provide to SEND Tribunal are single sided.

## **Do I have to send the appeal myself?**

No, but you must sign the appeal form yourself, unless your legal representative signs it for you. If the appeal is made jointly with another person, both of you must sign the form. Please be aware that SEND Tribunal will only provide information about the appeal to one person named on the appeal form. The choice is yours (see the form). If none of the boxes are ticked, the information will be sent to the first named person.

If you have a representative and you want them to receive all the letters and papers for the appeal on your behalf, you should give their name and address on the form. A legally qualified representative may sign the form on your behalf if you have given them permission to do so. If you say on the form that your representative is going to receive all the papers, you will not receive any correspondence in connection with the appeal before the hearing. Instead, SEND Tribunal will send it all to the representative. You must let SEND Tribunal know in writing if you decide to stop using your representative or if the details of your representative change.

## **What if I have any other needs?**

Please make sure that you give details of any special needs on the appeal form.

For example, if you need a signer or an interpreter at the hearing, or any special arrangements to be made to enable you to attend the hearing.

## **Section 3 – The process up to the tribunal hearing**

### **What happens after I send you my appeal?**

The appeal will be registered within 10 working days of receipt. SEND Tribunal will tell you that the appeal has been registered and the date of the final hearing of the appeal. The appeal number should be used whenever you contact SEND Tribunal about your appeal.

When the appeal is registered, case directions, an attendance form and a case management questionnaire are issued. The directions will set dates by which you must take action and send the local authority and SEND Tribunal information which will be considered at the hearing. It will also set a date by which you need to tell the local authority and SEND Tribunal about the witnesses (if any) that you will bring and anyone else you want to come to the hearing.

When the appeal has been registered, a copy is sent to the local authority, who are also issued with directions setting out the time limits for sending documents, sending the attendance form and case management questionnaire.

### **What will the local authority do about my appeal?**

The local authority must respond within 30 working days of a copy of the appeal notice being sent. They will send a copy of their response and any accompanying documents to you and to SEND Tribunal. If you do not receive the response within eight weeks of your appeal being registered, you should notify SEND Tribunal in writing.

The local authority will have the same timetable to send further information and evidence as is set out in your directions. The response must say whether or not they oppose the appeal and, if they do, they need to explain why. They should provide a summary of the facts and tell SEND Tribunal what the child thinks about the issues in the appeal. Local authorities are required by SEND Tribunal to provide children's views on the issues in the appeal wherever possible, or an explanation why they have not been provided. They may also contact you about the appeal, as they may have looked at the evidence again and feel that they can provide some or all of what you want.

The local authority may also apply to strike out (bring to an end) your appeal if they believe it is a case that the Tribunal cannot consider. If that happens, the Tribunal will send you a copy of the local authority's application and ask for your written comments, giving you the opportunity to explain why you think your appeal should continue.

### **What happens if the local authority does not oppose the appeal?**

This will depend on the issues in your appeal. If the local authority agrees to change the contents of the EHC Plan and you are satisfied with the outcome, you can withdraw the appeal or ask the Tribunal to order the local authority to change the EHC Plan in the way you have agreed by making a consent order.



If the appeal is about a decision not to carry out an EHC Needs Assessment or re-assessment, not to issue an EHC Plan, not to change the school named in an EHC Plan that is over one year old or to no longer maintain an EHC Plan, and the local authority does not oppose it, the appeal will automatically come to an end. The local authority will have to do what they have agreed to do within a fixed time limit.

### **What if the local authority does not provide a response?**

If the local authority does not send a response by the end of the time in which they have to reply, SEND Tribunal can do a number of things, including barring them from taking further part in the appeal. Before deciding what to do, SEND Tribunal will write to the local authority asking for an explanation for their failure to respond, or failure to respond in time. A tribunal judge will consider any reply the local authority gives and will decide what should happen. If the local authority is barred from further involvement, SEND Tribunal will decide whether your case can be dealt with on the papers or whether there should be a hearing, which the local authority would not attend.

### **Before the hearing**

#### **Can I send in any more documents?**

You should try to send in all your documents with the appeal. The case directions will set out if and when you can send other documents. You must send copies of all documents to the local authority at the same time as you send them to the Tribunal.

You should NOT copy SEND Tribunal into every email and correspondence exchange that you have with the other party. Think carefully about the information and documents that you want included in the tribunal bundle and bear in mind that anything you send will be provided to the tribunal panel.

#### **Can I bring new evidence to the hearing?**

As a general rule all the documents must be produced before the hearing. You should not normally bring new evidence to the hearing. In exceptional circumstances, SEND Tribunal will consider late evidence on the day of the hearing if you have already provided a copy to the local authority and can provide a good reason for the delay.

Evidence provided to SEND Tribunal after the final evidence date will be returned to you. If you want to bring additional evidence on the day, you should bring 5 copies for the tribunal panel and other party.

#### **What if the local authority has more evidence?**

The same rule applies to the local authority.

## **What if I find it difficult to get hold of a document that is important to my case?**

SEND Tribunal has power to order the production of a document. If you apply well before the hearing using the request for changes form, an order may be made directing the local authority or anyone else who may have relevant information to release it. If the local authority objects to releasing the information a judge will consider the objections and then decide whether or not to order the local authority to release the document. You will be able to comment on the local authority's objections before a decision is made. You may also be able to ask someone who is not directly involved in the appeal to release a document they have. That organisation could be the NHS or social care.

## **Requests for changes**

You can ask the tribunal to make an order for documents to be provided or for other directions, if you are unable to agree them with the other party at any time before the hearing. If you want to ask the tribunal to make an order, you should complete the "Request for changes" form explaining what you are asking the tribunal to do, and explaining why you want it done, and send a copy to the local authority and to the Tribunal. The request will be considered by a Registrar or Tribunal Judge and an order will be issued and sent to you and the local authority. You can get a form by phoning the tribunal clerks or by visiting our website, at [www.justice.gov.uk](http://www.justice.gov.uk).

## **Can I change my appeal?**

Once the appeal has been registered, SEND Tribunal must agree to any changes to the grounds of appeal. A request must be made in writing on the "Request for changes" form. On the form, set out the changes you want to make and explain the reasons for asking for the amendments and send a copy of the form to the local authority and to the Tribunal.

## **What is a telephone case management hearing?**

Sometimes, if there is an issue that a party has raised that is not easily resolved on the papers, a Registrar or Tribunal Judge will direct for a telephone case management hearing to be arranged.

This is a hearing that takes place by means of a conference call where the Tribunal Judge, the local authority representative and you or your representative (or both of you) will be able to discuss the case over the phone. You will be provided with a telephone number and an explanation of what you should do to join the hearing. Telephone hearings usually last between 20 and 30 minutes, and the Tribunal Judge will either give you a decision immediately or reserve the decision. In all telephone hearings, the orders made will be confirmed in writing within a few days.

## **Can I withdraw my appeal?**

The appeal can be withdrawn with SEND Tribunal's agreement. If you inform SEND Tribunal that you want to withdraw, permission will usually be given if it is more than three weeks before the hearing. The application to withdraw must be made on the request for changes form and explain why you wish to withdraw.

If you want to withdraw less than 15 working days before the hearing, you need to make the application in writing on the request for changes form setting out the reasons why you are withdrawing so close to the hearing. A tribunal judge will consider the request and decide what further action, if any, is required. You may need to take part in a telephone conference to explain why you want to withdraw.

A request to withdraw the appeal very near to the date of the hearing may be refused and both parties required to attend before a judge to explain the reasons for the late settlement of the appeal.

## **What will happen to my appeal if I move to live in another local authority area?**

You must inform SEND Tribunal immediately if you move house. If you move to another area, SEND Tribunal will then contact the new local authority to tell them about the appeal. The new local authority may be substituted as a party to the appeal as if they had made the decision. Your appeal will be against them, unless there are good reasons why they should not take over the appeal. If the case is transferred to the new local authority, there will be a new timetable for supplying evidence. The old local authority will take no further part in the appeal.

## **What is a working document?**

A working document is a copy of the final EHC Plan, on which both parties have worked to show the changes to the wording that they want or can agree, as well as those issues which the Tribunal must decide on the day of the final hearing.

The working document is provided to SEND Tribunal in advance of the hearing so that the tribunal panel is aware of the detailed wording in dispute. Sometimes, the options preferred by the two parties are brief and immediately clear to the reader. On other occasions the issues are more complex and/or lengthy and the working document may be confusing unless the document is carefully drafted.

## **How will I know the place for the hearing?**

At least 10 working days before the hearing, you will receive a full copy of the appeal bundle and details of the time and hearing venue. Sometimes your hearing may be postponed at short notice due to a lack of tribunal time, but you will be notified of this at least 48 hours before the scheduled start of the hearing.

Sometimes, it is necessary to change the venue for the hearing at short-notice. We will do our best to notify you of any change of venue at least 48 hours before the hearing.

## **What is Active Case Management?**

About three weeks before the final hearing, you and the local authority may get separate telephone calls from a Registrar asking you about any issues arising from your completed case management questionnaire. The call will be quite informal, and will ask you about your witnesses, working document or any other matter noted from your case management questionnaire or the fact that you have not submitted it. The purpose of the call is to make sure that the appeal is ready for hearing and is likely to be effective on the day.

## **Section 4 - The hearing**

A film explaining what happens at a hearing is available on YouTube (type 'special educational needs tribunal hearing' in the search box). A DVD is available to give you some idea of what happens at a hearing. You can ask SEND Tribunal for a copy of the DVD.

## **Where will my hearing be held?**

Appeal hearings are held at Tribunals buildings and in family court rooms as close as possible to your home. SEND Tribunal aims to limit travel to no more than one-and-a-half hours in each direction.

## **What time will my hearing start and how long will it last?**

Hearings are fixed to start usually at 10am but some start at 2pm. Please arrive 30 minutes before the hearing time so that you can meet the tribunal clerk, familiarise yourself with the arrangements and ask any questions. The length of your hearing will depend on the issues in the appeal and the number of witnesses coming to the hearing. Sometimes where the appeal is very complex, it may be necessary to adjourn the case to another day so that the tribunal panel can hear all the relevant evidence.

## **Who will hear my appeal?**

The appeal will be heard by a tribunal panel consisting of: a legally qualified tribunal judge, who will be the chair, and depending on the type of appeal, up to two specialist members who have been appointed because of their knowledge and experience of children with special educational needs and/or disabilities.

## **Do I have to come to the hearing?**

You do not have to come to the hearing but it is helpful if you do. The panel will want to hear anything you have to say and you may want to ask questions of the local authority and any witnesses they may bring. If you do not come, the questions may not be asked on your behalf.

The appeal can, however, be considered on the papers if both parties agree. If you consider that your appeal is suitable for a paper hearing, where neither of the parties attend, then you

can tick the box on the notice of appeal form and if both parties consent to a paper hearing, the appeal will be placed for consideration by the first available panel after the final evidence date and your appeal may be decided sooner than if it goes to an oral hearing.

### **Can I have a representative at the hearing?**

You can have a representative at the hearing whether or not you attend yourself. If you are represented, you must let us know on the attendance form sent to you on registration of the appeal.

A solicitor or a barrister may represent you but public funding (or Legal Aid) is not available unless the circumstances are exceptional.

### **Can both parents come to the hearing?**

Yes, anyone who is a parent of the child, even if they have not appealed, may come to the hearing. Where a parent who is separated from the other makes an appeal, they should notify the other parent of the appeal.

If, for some reason, you do not want the other parent to come to the hearing, you must tell SEND Tribunal why not by completing a request for changes form, explaining the reasons for the objection. A tribunal judge may agree to limit that person's involvement in the case.

### **Can the child come to the hearing?**

Yes, the child can come to the hearing and can give evidence, if they want to. However, bear in mind that it is unlikely that the child will stay for the full hearing and you must arrange for someone to look after the child when they are not in the hearing. The tribunal clerk will not be able to look after your child and it is unlikely that there will be a child-friendly place for them and their carer to use in the building.

### **Can I bring anyone else to support me during my hearing?**

Yes, you can bring another person with you for support but they will not be able to take part in the hearing, and the attendance form must show who they will be. If you think that you want more than one supporter, you must make a request on the request form. SEND Tribunal has power to exclude any person from the hearing. As it is a private hearing, no-one other than supporters can attend. If your representative is training someone on the tribunal process, they may be allowed to come as long as they make a request in writing at least 10 working days before the hearing. They will not be allowed to take part in the hearing.

At the start of the hearing, the tribunal judge who chairs the hearing will explain to the parties the procedure to be followed during the course of the hearing.

## **Can the appeal be heard earlier than the date set?**

If you and the local authority agree, then the appeal could be listed for an earlier hearing, if you contact SEND Tribunal to confirm the position. If you know that all of your evidence is available as soon as the local authority's response is received, and your witnesses are available at short notice, then you can, if the local authority agrees, ask for the appeal to be heard at 10 working days' notice.

## **Witnesses**

### **Do I need to say if I am bringing witnesses?**

Yes, you must inform SEND Tribunal on the attendance form who you will be bringing with you. If the information is not provided, SEND Tribunal may prevent your witness from taking part in the hearing or even being in the room where the hearing is held.

**IF YOU DO NOT COMPLETE THE ATTENDANCE FORM IDENTIFYING WHO WILL ATTEND THE HEARING YOUR APPEAL MAY BE STRUCK OUT.**

If you change your witnesses, you should tell SEND Tribunal and the local authority immediately.

You do not have to bring any witnesses at all but if you do want to, you are normally allowed to bring no more than three to the hearing. This is because SEND Tribunal aims to conclude every hearing within a day and that the focus is on only the relevant issues. Often a report by a professional who has assessed your child will contain all the information you want us to consider and it may not be necessary for that person to come to the hearing as well.

If you want to bring more than three witnesses, you will need to ask permission in writing on the request form. SEND Tribunal has power to limit the number of witnesses.

### **What if a witness refuses to come to the hearing?**

If you have asked someone and they are unhappy about coming to the hearing and have refused to attend, you can ask SEND Tribunal to issue a witness summons to require them to attend. You should complete a request for changes form, explaining why you feel it is important they be there, why their evidence cannot be provided in written format without their having to attend. You will need to explain why they cannot give their evidence through a witness EHC Plan or report, and why it is necessary for them to attend. SEND Tribunal must receive your request at least 15 working days before the hearing.

If the tribunal judge agrees to the request, a witness summons will be issued for you to give to the person. That person will then have to come to the hearing unless there are very good reasons why they cannot.

## **Will I be able to ask my own questions?**

Yes, you will have the chance to ask questions of the local authority, their witnesses and also add anything you feel is important but has not been mentioned.

## **What will happen at the hearing?**

SEND Tribunal hearings are a legal process, but try to be as informal as circumstances allow. When you are shown into the hearing room, you will sit at a table facing the tribunal panel. At the start of the hearing, the Tribunal Judge will give an introduction, explain the procedures to be followed during the course of the hearing and a list of the issues to be considered during the hearing. The parties will be asked to introduce themselves.

The tribunal panel will consider the appeal on an issue by issue basis and you will be invited to give your view and your evidence about each issue in turn. If you have additional issues that you want to raise, which are relevant to the appeal and which haven't already been discussed, you will be given an opportunity to raise these before the end of the hearing.

When all of the issues have been covered, you may be invited by the Tribunal Judge to make some brief closing comments summarising your appeal. You do not have to do this if you consider that all of the relevant issues have been discussed and if you choose to do so, you should keep your comments brief. It is intended to be a chance to summarise your position at the end of the hearing, in light of any changes brought about by the evidence heard.

## **What expenses can I claim?**

You and your witnesses can claim travel expenses to attend the hearing. If you bring a friend or a relative to look after your child, you will be able to claim their travel expenses as well.

You should use public transport where possible (bus, tram, standard-class rail travel). If you travel by car, you can claim a fixed amount for mileage. SEND Tribunal will only pay for taxi fares if public transport is not available, or if you have particular needs (you must tell SEND Tribunal about these before making your claim for expenses). If you require use of a taxi, please contact SEND Tribunal on 01325 392760 or [sendistqueries@hmcts.gsi.gov.uk](mailto:sendistqueries@hmcts.gsi.gov.uk) to get authorisation.

Your witnesses can also claim a fixed amount for loss of earnings.

Details about claiming expenses will be included with the notification of the arrangements for your hearing. At the hearing, the clerk will give you the relevant forms to fill in and return. SEND Tribunal will then either post the expenses or put them straight into your account.

## **Section 5 - After the hearing**

### **How do I get the decision?**

You should receive the decision and reasons by post within 10 working days of the hearing. The decision is sent to the nominated contact and the local authority.

### **How soon will the decision be put into practice?**

Once SEND Tribunal's decision is issued, the local authority must carry out the order within a fixed period, beginning with that date.

- To start the assessment or reassessment process – four weeks
- To make a EHC Plan – five weeks
- To amend EHC Plan – five weeks
- To amend the school/college/institution – two weeks
- To continue an EHC Plan – immediately
- To cease (no longer maintain) an EHC Plan – immediately

Some of these timescales also apply when the local authority tells SEND Tribunal they do not oppose the appeal. If the local authority does not keep to the order within that time, you may have to apply to the Secretary of State for Education or the High Court to enforce it. You can also make a complaint to the Local Government Ombudsman by contacting the LGO Advice Team on 0845 602 1938 or by writing to:

Local Government Ombudsman

PO Box 4771

Coventry CV4 0EH

You can also visit their website: [www.lgo.org.uk](http://www.lgo.org.uk)

### **What can I do if I am not happy about the decision?**

When the decision is issued, it will include a leaflet setting out in detail your right of appeal. The following is a brief outline of your options.

When you have received a decision, you may think that the decision is wrong in law or that there is another reason why SEND Tribunal should look again at the decision. If you think it is wrong in law, you can appeal to the Administrative Appeals Chamber of the Upper Tribunal but you must first ask for permission to appeal.

Guidance explaining how to make an application for permission to appeal against the decision and other applications that you can make following the decision is included with the decision.



## **Who can make an application?**

You can make an application if you have been involved in an appeal or claim before the First-tier Tribunal in a special educational needs or disability discrimination case. This includes if you are a parent, or person with parental responsibility, a local authority or a responsible body for a school.

## **What applications can I make?**

Following a decision of the First-tier Tribunal, you can make the following applications.

- You can apply for permission to appeal if you think that the decision was wrong in law.
- You can ask SEND Tribunal to review the decision because there has been a change of relevant circumstances since the decision was made.
- You can ask for the decision to be set aside in certain circumstances.

The three applications are explained in detail in the guidance sent with your decision.

## **When can I make an application?**

You must make an application so that it is received by SEND Tribunal no more than 28 calendar days from the date on the letter sent with the decision.

If you are applying more than 28 calendar days after the decision is sent, you will need to apply for an extension, giving the reasons why the application is late. If a tribunal judge does not agree to extend the time, your application will not be considered.

## List of useful addresses

<p>ACE Education 36 Nicholay Road London N19 3EZ Phone: 020 8407 5142 Website: <a href="http://www.ace-ed.org.uk">www.ace-ed.org.uk</a></p>	<p>AFASIC 20 Bowling Green Lane London EC1R 0BD Phone: 0845 355 5577 Website: <a href="http://www.afasic.org.uk">www.afasic.org.uk</a></p>
<p>British Deaf Association 18 Leather Lane London EC1N 7SU Phone: 020 7843 6000 Website: <a href="http://www.bda.org.uk">www.bda.org.uk</a></p>	<p>British Dyslexia Association Unit 8, Bracknell Beeches Old Bracknell Lane Bracknell, RG12 7RW Phone: 0845 251 9002 Website: <a href="http://bdadyslexia.org.uk">bdadyslexia.org.uk</a></p>
<p>Coram Children's Legal Centre University of Essex Wivenhoe Park Colchester CO4 3SQ Phone: 08088 020 008 Website: <a href="http://www.childrenslegalcentre.com">www.childrenslegalcentre.com</a></p>	<p>Council for Disabled Children National Childrens Bureau 9 Wakley Street London EC1V 1JN Phone: 020 7843 6000 Website: <a href="http://www.ncb.org.uk">www.ncb.org.uk</a></p>
<p>Council on Tribunals 81 Chancery Lane London, WC2A 1BQ Phone: 020 7855 5200 Website: <a href="http://www.council-on-tribunals.gov.uk">www.council-on-tribunals.gov.uk</a></p>	<p>Department for Education Sanctuary Buildings Great Smith Street London SW1P 3BT Phone: 0370 000 2288 Website: <a href="http://www.education.gov.uk">www.education.gov.uk</a></p>
<p>DIAL UK 39-45 Cavell Street London E1 2BP Phone: 020 7791 9000 Website: <a href="http://www.dlf.org.uk">www.dlf.org.uk</a></p>	<p>Equality &amp; Human Rights Commission Fleetbank House 2-6 Salisbury Square London EC4Y 8JX Phone: 0800 800 0082 Website: <a href="http://www.equalityhumanrights.com">www.equalityhumanrights.com</a></p>

<p>Down's Syndrome Association Langdon Down Centre 2a Langdon Park Teddington Middlesex TW11 9PS Phone: 0333 1212 300 Website: <a href="http://www.down-syndrome.org.uk">www.down-syndrome.org.uk</a></p>	<p>Haemophilia Society 1st Floor, Petershaw House 57a Hatton Gardens London EC1N 8JG Phone: 0800 018 6068 Website: <a href="http://www.haemophilia.org.uk">www.haemophilia.org.uk</a></p>
<p>Helen Arkell Dyslexia Centre Arkell Lane Frensham Farnham Surrey GU10 3BW Phone: 01252 792 400 Website: <a href="http://www.arkellcentre.org.uk">www.arkellcentre.org.uk</a></p>	<p>I CAN 8 Wakely Street London EC1V 7QE Phone: 020 7843 Website: <a href="http://www.ican.org.uk">www.ican.org.uk</a></p>
<p>IPSEA 24-26 Gold Street Saffron Walden CB10 1EJ Phone: 0845 602 9579 Website: <a href="http://www.ipsea.org.uk">www.ipsea.org.uk</a></p>	<p>KIDS 49 Mecklenburgh Square London WC1N 2NY Phone: 020 7520 0405 Website: <a href="http://www.kids.org.uk">www.kids.org.uk</a></p>
<p>Mencap 123 Golden Lane London EC1Y 0RT Phone: 0808 808 1111 Website: <a href="http://www.mencap.org.uk">www.mencap.org.uk</a></p>	<p>MIND 15-19 Broadway Stratford London E15 4BQ Phone: 0300 123 3393 Website: <a href="http://www.mind.org.uk">www.mind.org.uk</a></p>
<p>National Autistic Society 393 City Road London EC1V 1NG Phone: 0808 800 4104 Website: <a href="http://www.nas.org.uk">www.nas.org.uk</a> National Blind</p>	<p>Children's Society Bradbury House Market Street Highbridge Somerset TA9 3BW Phone: 01278 765 765 Website: <a href="http://www.nbcs.org.uk">www.nbcs.org.uk</a></p>

<p>National Deaf Children's Society  15 Dufferin Street  London EC1Y 8UR  Phone: 0808 800 8880  Website: <a href="http://www.ndcs.org.uk">www.ndcs.org.uk</a></p>	<p>National Parent Partnership  8 Wakley Street  London EC1V 7QE  Phone: 020 7843 6058  Website: <a href="http://www.parentpartnership.org.uk">www.parentpartnership.org.uk</a></p>
<p>National Sensory Integration Partnership (NatSIP)  Website: <a href="http://www.natsip.org.uk">www.natsip.org.uk</a></p>	<p>National Society for Epilepsy  Chesham Lane  Chalfont St Peter  Buckinghamshire SL9 0RJ  Phone: 01494 601300  Website: <a href="http://www.epilepsysociety.org.uk">www.epilepsysociety.org.uk</a></p>
<p>Network 81  10 Boleyn Way  West Clacton  Essex CO15 2NJ  Phone: 0845 077 4055  Website: <a href="http://www.network81.co.uk">www.network81.co.uk</a></p>	<p>Parents for Inclusion  336 Brixton Road  London SW9 7AA  Phone: 0800 652 3145  Website: <a href="http://www.parentsforinclusion.org">www.parentsforinclusion.org</a></p>
<p>Royal Association for Disability and Rehabilitation (RADAR)  12 City Forum  250 City Road  London EC1Y 8AF  Phone: 020 7250 3222  Website: <a href="http://www.radar.org.uk">www.radar.org.uk</a></p>	<p>Royal National Institute for the Blind  105 Judd Street  London WC1H 9NE  Phone: 0303 123 9999  Website: <a href="http://www.rnib.org.uk">www.rnib.org.uk</a></p>
<p>Scope  6 Market Place  London N7 9PW  Phone: 0808 800 3333  Website: <a href="http://www.scope.org.uk">www.scope.org.uk</a></p>	<p>Sense  101 Pentonville Road  London, N1 9LG  Phone: 0845 127 0060  Website: <a href="http://www.sense.org.uk">www.sense.org.uk</a></p>

## Glossary of terms for SEN Guidance Booklet

**Annual review:** the review of a the contents of an EHC Plan which the LA must make within 12 months of completing the EHC Plan or as the case may be of the previous review.

**Academy:** is a type of school that is independent of Local Authority control but is publicly funded, with some private sponsorship. Free Schools, University Technical Colleges and Studio Schools are all types of Academy.

**Alternative Provision [AP]:** education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour.

**Bundle:** all of the documents submitted in the appeal will be issued back to the parties and the tribunal panel in one bundle marked into sections to identify the parents' evidence the LA's evidence, requests, directions and orders and any late evidence submitted in the appeal. The bundle is numbered so that everyone at the hearing will have the same set of documents and references.

**Carer:** the Code of Practice makes references to a carer as the person who is named by a local authority to care for a child for whom the social services department has parental responsibility ie a child who is the subject of a care order or who has been placed in a residential or foster placement. The carer may qualify as a parent for purposes of the Education Acts because they have care of the child (see definition of parent) if so they will have a role to play in the consideration of a child's special educational needs.

**Case management:** is a process where specific cases are looked at by a tribunal judge on the papers supplied by the parents and the Local Authority. After this process an order may be issued asking either the parent or the Local Authority to send in further information.

**Clerk:** A clerk is one of the administration members of staff within the tribunal service. A clerk is not legally qualified and is only able to deal with general queries.

**Code of Practice:** The Code of Practice for Special Educational Needs is not statutory in content but is guidance that is approved by parliament and was last revised in 2001. The LA must have regard to the Code in making all of its decisions, as must the Tribunal when considering an appeal.

**Decision:** Final document which is produced by the tribunal judge and members following the final hearing. This document will set out the final decision and sets out what the Local Authority are to do.

**Directions:** An order by a tribunal judge/registrar which parents and the Local Authority must comply with. It sets out further deadlines for specific information from either party of the appeal.

**Independent School:** a school that is not maintained by a local authority and is registered under section 464 of the Education Act 1996. Section 347 of the Education Act 1996 sets out the conditions under which an independent school may be approved by the Secretary of State as being suitable for the admission of children with EHC Plan of special educational needs.

**Individual Education Plan [IEP]:** the IEP is a planning, teaching and reviewing tool. It is a working document for all teaching staff recording key short-term targets and strategies for an individual pupil that are different from or additional to those in place for the rest of the group or class.

**Learning Support Assistant [LSA]:** a term for describing an assistant providing in school support for pupils with special educational needs and/or disabilities. An LSA can be dedicated support for one pupils or pupils providing close support to the individual pupil and assistance to those responsible for teaching him/her. Some assistants specialising in SEN may also be known by titles other than LSA as decided locally. Some LAs distinguish between LSAs and TAs Teaching assistants. Those with additional qualifications and paid at a higher grade are designated HLTAs Higher Level Teaching Assistants.

**Local authority:** the local government body responsible for identifying and assessing the child's needs. This will usually be the local authority for the area in which the child lives, but may be another authority if the child is in care or foster care. The relevant authority can change if the child's home changes to another local authority area.

**Maintained School:** any community foundation voluntary or community special or foundation special schools are maintained by the local authority.

**Non-maintained special school:** Schools in England approved by the Secretary of State under section 342 of the Education Act 1996 as special schools which are not maintained by the local authority but charge fees on a non-profit making basis. Most non-maintained special schools are run by major charities or charitable trusts.

**Occupational therapy:** the use of purposeful activity and play to help a child attain maximum levels of functional performance thus gaining self-esteem and independence. Motor, sensory, perceptual, social, emotional and self-care skills are assessed. Working with the child, parents and teachers, occupational therapists use therapeutic techniques (advising on equipment and environment adaptations where appropriate) to improve a child's ability to access the physical and learning curriculum.

**OfSTED:** Office for Standards in Education: a non-ministerial government department established under the Education (Schools) Act 1992 to take responsibility for the inspection of all schools in England. Her Majesty's Inspectors (HMI) forms their professional arm.

**Independent Advice and Support Services (IASS):** Funded by local authorities, the remit of IASS can vary widely depending on local arrangements. Their role is to provide neutral and factual support on all aspects of the SEN framework to help parents play an active and informed role in their child's education. They also provide support to Young People. Although funded by the local authority they provide a service to parents and Young People and are often either run at arms length from the LA or by a voluntary organisation to ensure parents have confidence in them.

**Permanent venue/venue:** This is the venue which you will attending for your final hearing. Permanent venue means that it is one of our venues which we hold hearings at on a weekly basis.

**Phase/Secondary transfer:** This is when your child is due to move from a primary school to secondary school.

**Physiotherapy:** the use of physical approaches in the promotion, maintenance and restoration of an individual's physical psychological and social well being.

**Pupil Referral Unit [PRU]:** any school established and maintained by a local authority under section 19(2) of the education Act 1996 which is specially organised to provide education for pupils who would not otherwise receive suitable education because of illness exclusion or any other reason. Further details are given in DfEE Circular 11/99 Chapter 6.

**Requests:** an application to ask for something which you require or wish to change.

**SEN Co-ordinator [SENCo]:** A SENCO is responsible for the day-to-day operation of the school's SEN policy. All mainstream schools must appoint a teacher to be their SENCO.

**Special educational needs:** the child's difficulties which prevents them from learning.

**Special educational provision:** the educational provision that a child requires that is additional to and different from that received by other children to enable them to learn.

**Speech and language therapy (SALT):** Speech and language therapists (SLTs) are allied health professionals. They work closely with parents, carers and other professionals, such as teachers, nurses, occupational therapists and doctors. There are around 13,000 practising SLTs in the UK

**Statutory assessment:** A statutory assessment is a detailed investigation to find out what your child's special educational needs are and what provision is needed to meet those needs. An assessment is the step before an EHC Plan, but doesn't always lead to an EHC Plan being issued. An EHC Needs Assessment is a Statutory Assessment.

**Telephone case management hearing [tcmh]:** Is a telephone call which takes place between the parent/parent representative, Local Authority representative and also the Tribunal Judge.

**Upper Tribunal:** is part of the administrative justice system of the UK. It was created in 2008 as part of a programme, set out in the Tribunals, Courts and Enforcement Act 2007, to rationalise the tribunal system, and to provide a common means of handling appeals against the decisions of lower tribunals. It is administered by Her Majesty's Courts and Tribunals Service.