

## **Appealing a decision about an EHCP**

If you are unhappy with a decision made by the Local authority regarding an EHCP, it is always advisable to contact the SEN team and arrange a meeting with the Case Manager to discuss reasons for the decision they have made and the reasons why you disagree.

It may be possible to resolve the issue at this meeting, which will mean you would not have to proceed with the formal appeals process.

Following this meeting, if you are still unhappy, you can register for the First Tier Tribunal (SEN and Disability) to appeal the decision. To do this, you first have to consider mediation - this is called mediation advice.

Once you have had mediation advice you can choose whether to attend a mediation meeting or request a mediation certificate and go straight to tribunal. Don't forget you can still go to tribunal after you have been through mediation if you are still unhappy with the result.

The Tribunal will not take into account that mediation has or has not taken place or any mediation outcome.

You don't have to have mediation advice if you are appealing only against the name of the school, college, or other institution specified in the plan or if one hasn't been named.

### **What is Mediation?**

Mediation is a type of disagreement resolution—this service is free, for the parent or young person, and confidential.

*“Mediation can take place following decisions made by a local authority not to carry out an EHC needs assessment, not to draw up an EHC Plan, after they receive a final EHC Plan or amended plan, following a decision not to amend an EHC Plan or a decision to cease to maintain an EHC Plan” SEND Code Of Practice 11.13*

You can find out more about mediation from the SEND Code of Practice sections 11.13 to 11.38

Mediation advisors are trained and accredited—they are also independent from the Local Authority or the clinical commissioning group.

An independent mediator will lead the meeting—once the meeting has finished the mediator will issue you with a certificate within 3 working days. (This is the certificate

you need to appeal to the first tier tribunal if you decide to).

If you decide to go to mediation the local authority or clinical commissioning group must take part - they will arrange a meeting within 30 days.

## **Appeals to tribunal**

### **What can parents & young people go to tribunal about?**

The SEND Code of Practice says parents and young people can go to tribunal about:

- A decision by a local authority not to carry out an EHC needs assessment or re-assessment
- A decision made by the local authority that it is not necessary to issue an EHC Plan following an assessment
- The description of a child or young person's special educational needs specified in an EHC Plan (Section B), the special educational provision specified (Section F), the school or other institution or type of school specified in the plan or that no school has been specified (Section I).
- A decision by a local authority not to amend an EHC plan following a review or reassessment.
- A decision by a local authority to cease to maintain an EHC Plan

You can find out more about appeals to the Tribunal in the SEND Code of Practice sections 11.39 to 11.55.

### **What are the time limits for appealing to the Tribunal?**

The deadline for registering an appeal with the Tribunal is two months from when the local authority sent the notice (letter) containing the decision that is to be appealed, or one month from the date a mediation certificate is issued – whichever is the later. Claims for disability discrimination must be made within six months of the alleged instance of discrimination.

### **What is the role and function of the tribunal?**

The tribunal hears decisions made by the local authority in England in relation to children and young people's EHC needs assessments and EHC Plans. It also hears disability discrimination claims against schools and against local

authorities when the local authority is the responsible body for the school.

The tribunal ensures that the process of appealing is user friendly as far as possible and to avoid hearings that are overly legalistic or technical. It's the tribunal's aim to ensure that a parent or young person should not need to engage legal representation when appealing a decision. Parents and young people may find it helpful to have support from a voluntary organisation or a friend at a hearing. Shropshire IASS can also support you.

## **What decisions can the Tribunal make?**

The tribunal has a range of powers to make certain decisions including:

- Dismissing the appeal
- Ordering the local authority to carry out an assessment
- Ordering the local authority to make & maintain an EHCP
- Ordering the local authority to amend the EHCP
- Ordering the local authority to reconsider or correct a weakness in the plan, for example where necessary information is missing

The decision of the Tribunal is binding & the local authority who must comply within a certain time frame.

## **Where can I get further information, advice or support?**

Contact the IASS team on:

**Phone:** 01743 280019 (Open 10am-4pm Monday—Friday)

**Web:** [www.cabshropshire.org.uk](http://www.cabshropshire.org.uk)

[www.facebook.com/IASSShropshire](https://www.facebook.com/IASSShropshire)

**Email:** [iass@cabshropshire.org.uk](mailto:iass@cabshropshire.org.uk)

**Address:** Fletcher House, 15 College Hill, Shrewsbury, SY1 1LY