

What decisions can I appeal about?

- The LA refuses to carry out an EHC Needs Assessment or reassessment providing there has been no new assessment within the previous 6 months
- The LA refuses to issue an EHC plan after an EHC Needs Assessment
- The parent/carer or Young Person have received a final EHC plan and not happy with the contents and/or education setting (Section B, F and I).
- The LA has refused to amend an EHCP following an Annual Review and / or reassessment
- The LA decides to cease to maintain (end) an EHCP

The time limit for appealing is **2 months** from the date of any of the above decisions being made or **30 days** from the date on a mediation certificate, whichever is the later.

Appeals relating to the refusal to carry out a Needs Assessment are normally based on the paperwork evidence submitted unless there is a valid reason for a hearing and will take around 10 weeks from the date the appeal is registered.

Appeals for any of the other reasons have the option to be dealt with based on the paperwork provided but this is not recommended. Such appeals will generally be heard around 12 weeks after the appeal is registered.

Initial Procedures

- The parent/carer completes the relevant appeal form, SEND35. If the appeal is for a Refusal to Assess, then the relevant form is form SEND35a. Forms can be found on the [Tribunal website](#) – an online search for 'SEND Tribunal' will guide you to the relevant .gov.uk website.
- Make sure your grounds for appeal give as much detail as possible, even if you need to put them in a separate document. You should ensure your appeal is accompanied by all relevant documents which support your appeal. There is no need to include out of date reports.
- If you are appealing against the school named, then you will need to include the OFSTED report and prospectus for the school you prefer.

Timeline

- After you send in your appeal, the SEND Tribunal will reply within **10 working days**
- The Tribunal will acknowledge your appeal by registering it. You will receive a registration letter with information about important dates.
- The Hearing date will be approximately 12 weeks from the date your appeal was registered.
- At the same time, the SEND Tribunal will write to the LA, sending them a copy of your appeal documents.
- The LA will have **6 weeks** to respond and it must respond to both the Tribunal and parents.
- The Tribunal will send 'automatic directions' which indicate when documents or details of witnesses must be filed. They will also seek specific information to be filed by one or both parties, such as the cost of a particular school placement. Often appeals for a specific school will come down to the impact on the 'public purse'.
- When the LA responds it must state whether they oppose the appeal and why. Parents are entitled to know what the LA's case is and if it is not clear then they can apply to the Tribunal for an order asking the LA to clarify its case.
- Part of the process may be that either party makes an **application for directions** at any time, for example more time to comply with a tribunal direction, asking for further information or documents or to seek leave to call additional witnesses. This must be done using the **Request for Changes** form available on the [gov.uk website](https://www.gov.uk). This can take up to **2 weeks** to process.
- Tribunal directions will set a date after which no further evidence can be submitted, usually **4 weeks** before the hearing date. With regard to appeals on the contents of an EHCP (Sections B and F) the parties will be directed to work together to produce a 'working document' which should be filed **10 days** before the hearing.

Settlement or withdrawal of the appeal

It is always an option to settle the case by agreement in advance of the hearing date.

Where the LA concedes before it has put in a response, it has to comply with the deadlines in [SEND Reg 45](#) for assessing, issuing or amending an EHC plan.

Where the LA has already put in a response, the parties should write up a document setting out what has been agreed and then both sign it. This is called a **Consent Order** and it is legally binding. It should be sent to the Tribunal with an explanation that the parties have agreed to appeal can be resolved by consent. This should set out what has been agreed and the dates by which the LA is going to act. There are no deadlines which will apply automatically so parties will need to agree these. The parties could simply state that the deadlines in [SEND Reg 44](#) apply.

The Hearing

- The Tribunal will send details of a proposed hearing date when the appeal is first registered but both parties have the option of seeking to amend this if necessary.
- Appeals on the Refusal to Assess will usually be set for **half a day**.
- Other appeals relating to the contents of an EHCP including a change of school will usually be set for **one day**.
- If the hearing cannot be completed within the allocated time then it will be adjourned and a further date set which may not be for several weeks.
- Decisions are not made on the day but will be considered separately and then sent to each party within **2 weeks** of the hearing. A timetable for putting the Tribunal decision into effect, if relevant, will accompany the decision.

You may also wish to see our [Appealing to the SEND Tribunal Factsheet](#).

Video resource

[The timeline of a SEND Tribunal Appeal](#)

Where can I get more information, advice and support?

You can find more information about [appealing on the IPSEA website](#), including specific information on:

- [Refusal to assess appeals](#)
- [Appeals about the contents of an EHC plan](#)
- [Appealing against the school named in your EHC plan](#)
- [Challenging SEND Tribunal decisions](#)
- [What happens after I submit my appeal?](#)

Milton Keynes Special Educational Needs & Disability Information, Advice & Support Service (MK SENDIAS) can give you:

- Information about SEND support, including information about SEND funding
- Advice about what to do if you are not happy with the support your school is providing
- Support to prepare for school meetings and Annual Reviews.
- Information and advice about your rights to request an EHC needs assessment and support with the process
- Help to navigate Appeals and Complaints procedures
- Information about other organizations, support groups and information services that could help

You can contact us:

- By completing a [referral form](#)
- Via our [website](#) for lots of useful information and factsheets
- To discuss your concerns by phone on 01908 254518
- By [email](#), briefly outlining your concerns
- On [Facebook](#)

