

Appeal an education, health and care (EHC) plan decision

1. When you can appeal

Appeal to the Special Educational Needs and Disability Tribunal if you disagree with a decision your local authority has made about a child or young person's education, health and care (EHC) needs or plan.

You can appeal if you do not agree with the EHC plan your local authority has made, or if they:

- refuse to carry out an EHC assessment or reassessment
- refuse to create an EHC plan after carrying out an assessment or reassessment
- refuse to change the sections of an existing EHC plan which are about education (sections B, F and I)
- decide you or your child does not need an EHC plan any more

The process is different if you're [in Wales](#)

[\(https://specialeducationalneedstribunal.gov.wales/\)](https://specialeducationalneedstribunal.gov.wales/).

Who can appeal

In most cases, you must [talk to a mediation adviser \(/appeal-ehc-plan-decision/before-you-appeal\)](/appeal-ehc-plan-decision/before-you-appeal) before you appeal.

You can appeal as either:

- someone with [parental responsibility for a child, or as their foster parent or carer \(/appeal-ehc-plan-decision/appeal-as-a-parent\)](/appeal-ehc-plan-decision/appeal-as-a-parent)
- [a young person \(/appeal-ehc-plan-decision/appeal-as-a-young-person\)](/appeal-ehc-plan-decision/appeal-as-a-young-person)

Help you can get

Check if you can [get legal aid \(/check-legal-aid\)](/check-legal-aid).

You can also get free help and advice from:

- the [Independent Parental Special Education Advice \(IPSEA\) \(https://www.ipsea.org.uk/contact-ipsea\)](https://www.ipsea.org.uk/contact-ipsea)
- your local Parent Partnership Service through the [Information, Advice and Support Services \(IASS\) Network \(http://cyp.iassnetwork.org.uk/\)](http://cyp.iassnetwork.org.uk/)

2. Before you appeal

In most cases, you must consider mediation before you appeal to the tribunal. Mediation is a less formal way of working out a solution to your problem.

You do not have to consider mediation if your appeal is only about which school or other institution you or your child should attend (Section I of the EHC plan).

Your local authority will have sent you a letter giving their decision about the EHC plan. The letter will tell you how to contact a mediation service.

If you do not have the letter, [contact your local authority \(/find-your-local-council\)](#) to get details of your local special educational needs mediation service.

A mediation adviser will explain how mediation works. If you want to go ahead, they'll bring you and your local authority together to discuss the problem.

At the end they'll give you a mediation certificate, which you'll need if you still want to appeal.

If you do not want mediation

You still need to contact the mediation service to get a mediation certificate so that you can appeal.

3. Appeal as a parent

You can appeal if you have parental responsibility for the child, or are their foster parent or carer. Your child must be under the [school leaving age \(/know-when-you-can-leave-school\)](#).

If your child is over the school leaving age, they may be able to [appeal on their own behalf \(/appeal-ehc-plan-decision/appeal-as-a-child\)](#) instead.

How to appeal

Download and fill in [form SEND35 \(/government/publications/form-send35-special-educational-needs-and-disability-tribunal-appeal\)](#).

There's a different form if:

- you're appealing a local authority's decision not to carry out an EHC assessment ([form SEND35A \(/government/publications/form-send35a-special-educational-needs-and-disability-tribunal-appeal-a-refusal-to-secure-an-ehc-needs-assessment\)](#))
- your child's in custody ([form SEND28 \(/government/publications/form-send28-appeal-form-child-detained-in-youth-accommodation\)](#))

The tribunal must receive your appeal within 2 months of the date on the local authority's decision letter or a month from the date of the [mediation certificate \(/appeal-ehc-plan-decision/before-you-appeal\)](#) - whichever is later.

Change or withdraw your appeal

You can change or withdraw your appeal before the hearing. Download and fill in:

- [form SEND7 \(/government/publications/form-send7-request-for-change\)](#) to change your appeal, for example ask for a different hearing date or add more witnesses

- [form SEND8 \(/government/publications/form-send8-withdrawal-of-appeal-or-claim\)](/government/publications/form-send8-withdrawal-of-appeal-or-claim) to withdraw your appeal

4. Appeal as a young person

You must be [over school leaving age \(/know-when-you-can-leave-school\)](/know-when-you-can-leave-school) but under 25. You must also be either:

- in education, for example at a school or college - or trying to get into one
- taking part in an apprenticeship, internship or workplace scheme - or trying to get into one

You can also appeal if you're in custody (in prison or a young offender institution, for example) if you're over school leaving age but under 18.

You cannot appeal if you're studying at university, or trying to get into one.

If you cannot appeal, a parent may be able to [appeal on your behalf \(/appeal-ehc-plan-decision/appeal-as-a-parent\)](/appeal-ehc-plan-decision/appeal-as-a-parent) instead.

How to appeal

Download and fill in [form SEND35 \(/government/publications/form-send35-special-educational-needs-and-disability-tribunal-appeal\)](/government/publications/form-send35-special-educational-needs-and-disability-tribunal-appeal).

There's a different form if:

- you're appealing a local authority's decision not to carry out an EHC assessment ([form SEND35A \(/government/publications/form-send35a-special-](/government/publications/form-send35a-special-educational-needs-and-disability-tribunal-appeal)

[educational-needs-and-disability-tribunal-appeal-a-refusal-to-secure-an-ehc-needs-assessment](#))

- you're in custody ([form SEND28 \(/government/publications/form-send28-appeal-form-child-detained-in-youth-accommodation\)](#))

The tribunal must receive your appeal within 2 months of the date on the local authority's decision letter or a month from the date of the [mediation certificate \(/appeal-ehc-plan-decision/before-you-appeal\)](#) - whichever is later.

Change or withdraw your appeal

You can change or withdraw your appeal before the hearing. Download and fill in:

- [form SEND7 \(/government/publications/form-send7-request-for-change\)](#) to change your appeal, for example ask for a different hearing date or add more witnesses
- [form SEND8 \(/government/publications/form-send8-withdrawal-of-appeal-or-claim\)](#) to withdraw your appeal

5. What happens at the hearing

The tribunal will hold the hearing via video link or at a venue within 2 hours of your home. You do not have to go, but if you do you can ask questions and present the case yourself.

If you or your witness or representative is outside the UK and wants to give live video or audio evidence, [contact the tribunal \(/find-court-tribunal\)](#) to request it. Tell the tribunal what country you, the witness or representative is in and what type of evidence is being given. You must do this as soon as possible.

You can [ask to have an interpreter \(/get-interpreter-at-court-or-tribunal\)](#) at the hearing. They'll translate what happens but they cannot represent you or give you legal advice.

Let the tribunal know if you'll need any other reasonable adjustments to take part in the hearing, such as hearing loops or disabled access.

You might be asked questions by:

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

You'll usually get the tribunal's decision by letter or email within 10 working days of the hearing.

Who'll be at the hearing

The hearing will usually be attended by:

- a judge and 1 or 2 other tribunal members
- a clerk
- someone representing the local authority
- [expert witnesses \(/guidance/send-tribunal-if-youre-asked-to-be-a-witness\)](#)

If you're a parent who wants to attend, you must fill in an [attendance form \(/government/publications/form-send11-attendance-form-parents\)](#) if you want to bring:

- someone to represent you
- someone to support you

- any witnesses

If you're appealing as a young person, both of your parents can come to the hearing as well as a representative.

Claim expenses

You might be able to [claim travel expenses \(/government/publications/form-send15a-expenses-claim-form-parents\)](/government/publications/form-send15a-expenses-claim-form-parents) for going to the hearing.

Your witnesses might also be able to [claim expenses for travel and loss of earnings \(/government/publications/form-send16a-expenses-claim-form-witnesses\)](/government/publications/form-send16a-expenses-claim-form-witnesses).

If you bring a friend or relative to the hearing, you might also be able to claim for their travel costs. You'll be sent a form to make the claim.

6. 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
Start assessment or reassessment	Within 2 weeks
Make an EHC plan	Within 5 weeks
Change the needs or provision (sections B or F) in the plan	Within 5 weeks

Decision	When local authority must act
Change the school or placement (section I) in the plan	Within 2 weeks
Continue with a plan	Immediately
Cancel a plan	Immediately

You can complain to the Local Government Ombudsman if the local authority does not act on the decision.

Local Government Ombudsman

[Enquiry form \(http://www.lgo.org.uk/forms/ShowForm.asp?fm_fid=62\)](http://www.lgo.org.uk/forms/ShowForm.asp?fm_fid=62)

Telephone: 0300 061 0614

[Find out about call charges \(/call-charges\)](#)

Local Government Ombudsman

PO Box 4771

Coventry

CV4 0EH

7. If you lose your appeal

You might be able to:

- get the decision ‘set aside’ (cancelled) if you think there’s been a mistake in the process
- ask the tribunal to ‘review’ the decision, for example if your circumstances have changed since you got the decision or the decision contains a

mistake

- ask for permission to appeal to the Upper Tribunal (Administrative Appeals) Chamber if you think the tribunal's made a mistake and acted against the law

Your decision letter will tell you how to get the decision set aside or ask the tribunal to review the decision.

Appeal to the Upper Tribunal

You must [ask for permission to appeal \(/government/publications/form-send20a-application-for-permission-to-appeal\)](/government/publications/form-send20a-application-for-permission-to-appeal) within 28 days of the date of the tribunal's decision letter.

Contact the Special Educational Needs and Disability Tribunal if you have any questions about completing the form. The tribunal cannot give you legal advice.

Special Educational Needs and Disability Tribunal

sendistqueries@justice.gov.uk

Telephone: 01325 289 350

Fax: 01325 391 080

[Find out about call charges \(/call-charges\)](/call-charges)

8. Legislation

The tribunal will make a decision based on:

- [Chapter 10 of the Special Educational Needs and Disability Act 2001 \(http://www.legislation.gov.uk/ukpga/2001/10/contents\)](http://www.legislation.gov.uk/ukpga/2001/10/contents)

- [Children and Families Act 2014](http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted)
(<http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>)
- [Code of Practice for Special Educational Needs 2014](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25)
([/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25))
- [Special Educational Needs and Disability Regulations 2014](http://www.legislation.gov.uk/uksi/2014/1530/contents/made)
(<http://www.legislation.gov.uk/uksi/2014/1530/contents/made>)
- [Tribunal Procedure \(First-tier Tribunal\) \(Health, Education and Social Care Chambers\) Rules 2008](http://www.legislation.gov.uk/uksi/2008/2699/made)
(<http://www.legislation.gov.uk/uksi/2008/2699/made>)

The tribunal will use the following practice directions:

- [First Tier and Upper Tribunal Child, Vulnerable Adult and sensitive witnesses](http://www.justice.gov.uk/downloads/tribunals/special-educational-needs-and-disability/Childvulnerableadultandsensitivewitnesses.pdf) (<http://www.justice.gov.uk/downloads/tribunals/special-educational-needs-and-disability/Childvulnerableadultandsensitivewitnesses.pdf>)
 - [Health Education and Social Care Chamber Special Educational Needs or Disability Discrimination in Schools Cases](http://www.justice.gov.uk/downloads/tribunals/special-educational-needs-and-disability/SENDIST2.pdf)
(<http://www.justice.gov.uk/downloads/tribunals/special-educational-needs-and-disability/SENDIST2.pdf>)
 - [Conclusion of the pilot to test the composition of a panel in the First-tier Tribunal \(Special Educational Needs & Disability\) \(FtT-SEND\)](https://www.judiciary.gov.uk/publications/conclusion-of-the-pilot-to-test-the-composition-of-a-panel-in-the-first-tier-tribunal-special-educational-needs-disability-fft-send/)
(<https://www.judiciary.gov.uk/publications/conclusion-of-the-pilot-to-test-the-composition-of-a-panel-in-the-first-tier-tribunal-special-educational-needs-disability-fft-send/>)
 - [Appeals Against Statements of Special Educational Needs](https://www.judiciary.gov.uk/publications/fft-hesc-practice-guidance-appeals-against-statements-of-special-educational-needs-march-2018/)
(<https://www.judiciary.gov.uk/publications/fft-hesc-practice-guidance-appeals-against-statements-of-special-educational-needs-march-2018/>)
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