

Content Appeals

2. Completing the appeal form SEND 35



This is the 2nd guide in the Content Appeals series. In this guide we will primarily focus on completing the appeal form for sections B & F (Needs and Provision) of the EHC plan. However, if you are appealing Section I (placement) then you may want to consider this guide alongside the one about Section I appeals. Please see our website pages for more information about the different types of appeals.

You will need to complete an appeal form – [SEND 35](#) and submit this to the tribunal with your accompanying evidence and the mediation certificate.

Keys:

This is a box within the form which we have added information & advice to.

This is extra information & advice

SEND 35 – The Form

Section 1: Who is the appeal about?

This is straight forward information.

- A child under 16 years old
- A young person aged 16 or over and under 25 years old

Surname

First name(s)

Gender

- Male Female Other

Date of birth

Section 2: What are you appealing against?

I am asking the Tribunal make a decision on the following issues (please tick all those that apply):

Choose one option from here (this will depend on what happened prior to receiving the letter):

- The Local Authority secured an EHC assessment but refused to make an EHC plan
- The Local Authority has issued an EHC plan following an EHC Needs Assessment

- The Local Authority has refused to secure a Re-Assessment of EHC Needs
- The Local Authority has carried out an annual review of the EHC plan
- The Local Authority has refused to amend the EHC plan after an EHC Needs Re-Assessment
- The Local Authority has decided that the EHC plan is no longer necessary and are going to 'Cease to Maintain' the plan

and

Choose all the options that apply for this next section. If it is just sections B & F, then tick the first 2. If it is placement (school / college) as well then tick first 2 and just one option from last 2 (Section I). Tick only Section I option if you are confident that sections B & F are fully explained, accurate, clear and specific. If you are not sure then tick the boxes for sections B & F as well as I.

- I disagree with what the EHC plan says about the child or young persons special educational needs (Section B)
 - I disagree with what the EHC plan says about the educational help/provision the child or Young Person requires (Section F)
 - I disagree with the school/college/institution named in the EHC plan (Section I)
- or**
- The Local Authority has not named a school/college/institution in the EHC plan (Section I)

If you are appealing against Section I of the EHC plan, please provide the name and address of the school/college/institution that you are asking the Tribunal to name instead:

Only complete this if your appeal includes a disagreement about the named school / college or the type of school named in Section I. Leave blank, if you have not ticked the section I option above.

Name of school/college/institution

Type in the name of the school / college etc that you want your child to go to (and therefore to be named in Section I of the EHC plan)

Address

Type in the address of the school / college etc

Postcode

Please confirm that you have contacted the school/college/institution about the child or Young Person attending there, the date you did so and any response they made:

You do not necessarily have to have an offer of a space for your child, but tribunal will want to know that you have spoken to them, the date this happened and what their response was (ie, we can meet needs, but we are full; We don't think your child will settle here; We would be able to meet your child's needs here). It will also be good if you have told them that you are appealing for a place there. You may write something like:

I emailed *** school on 10.5.22 to let them know I was appealing for my child to have a place at their school. I attach a copy of their email response stating that they feel that they could meet my child's needs, but they are currently full / They feel that they can meet my child's needs and they can offer him a place.

If you cannot name a particular school/college/institution, please describe the type of school/college/institution you would prefer in Section I:

If are not able to name a school, you may know the **type** of school (i.e a mainstream or specialist school). Sometimes you may not know because assessments are still being done in which case you can say that here. If professionals have stated particular traits of a school (ie a school with small classes, with certain therapies, with outdoor activities, that is safe for your child, that have support assistants etc) then you can also state that here. Make sure you refer to supporting evidence.

If you are asking the tribunal to make a recommendation for Health or Social Care needs.

If you would like the tribunal to make recommendations about Health or Social Care needs then tick one or both of these. Section 4 of the form asks for you to give more information about this.

- I disagree with what the EHC plan says about health
- I disagree with what the EHC plan says about social care

Section 3: Reasons for appeal

This section will take the most time and thought. You may not need to respond to all the boxes, only the ones that apply to your appeal (depending on what you ticked in Section 2). However, the first box will **always** need to be completed.

It is likely that you will not be able to get all your writing into the boxes (as they do not expand) so you can either start to write and then continue onto a separate sheet or write in the box 'Please see attached sheet' and write it all on this separate sheet. Mark it clearly with your child's name and date of birth along with - 'My reasons for appeal Section 3' and state the box you are responding to for each section i.e. I disagree with the description of Etc' and write your points for each one.

I disagree with the description of special educational needs (Section B of the EHCP) because:

Here is your opportunity to tell the tribunal why you think section B needs amending. For example:

The LA did not amend my child's plan following our Annual Review. I explained that *** said

- he gets very anxious about learning and talking to other children and teachers
- He doesn't want to come to school because he thinks everyone is staring at him and he cannot concentrate.
- At the annual review, the SENCO said that his anxiety would be added to section B as a new needs but the LA have not done this. Please see pink highlighted part of the School's annual review report dated **/**/**.

Continued:

The LA has failed to include that **** was diagnosed with ADHD in 2021 and hasn't included any of the needs associated with that. I would like the following needs added..... See CDC report dated **** page 10

The LA have said that **** is in nappies but he has been out of these since 2021. The LA are refusing to amend as there is no professional report that mentions this. However, you can see instantly that this is not the case.

**** has not attended school for the past 6 months but the EHCP is written as though she is at school. School report dated*** page 5 paragraph 2 states *** has not been attending and this has not changed.

The EHCP does not mention that *** is on the waiting list to be seen by CAMHS because of her poor mental health, self-harming and overall anxiety. LA refused to amend the Plan as there is no consultant letter to evidence any of this as we are still on the waiting list. However, Mrs., the SENCO wrote in her letter that she could see that **** was struggling / the school have constantly been sending ... home (see ... emails) etc etc

I disagree with the specification of special educational provision (Section F of the EHCP) because:

This is often appealed due to either a lack of appropriate provision, unspecified provision or provision is missing entirely for a particular need.

If a need is identified in Section B but no provision is mentioned for it in Section F then it is simple to just state... Need is mentioned in B but there is no corresponding provision in section F.

If You have a report that recommends certain provision then you can state..... The LA have not included the provision of ... SALT / OT / Laptop / 1:1 support. This provision was recommended in ... report dated **, page 10 and is to meet the needstated in section B of the plan.

If provision is not specified, you can state that The LA have written that *** should receive *** provision but it does not quantify, not specify how often, who by, where etc etc

The LA have not considered:

Include here anything that you think the LA have missed. For example:

- The LA have not received all the assessments yet and therefore there is likely to be more needs or provision to include.
- The LA have not considered my child's anxiety and the fact that he is on medication – see ** report dated **/**/** Page 9, paragraph 3.

I disagree with the LA's choice of school/college/institution (Section I of the EHCP) because:

Examples:

It cannot meet my child's needs. I believe this because:

1. Lack of training and understanding of Autism

The teaching staff at this school only receive 4 hours training a year. The EP report dated **/**/** page 9, paragraph 2 states that **** should be supervised and supported by trained staff, knowledgeable and experienced at a high level in teaching those with Autism.

2. They do not generally provide teaching assistants in the classroom. The ** report, page ** etc states that *** will require constant supervision. Even if they employed someone, ** would be different to his peers and his anxieties would escalate.

I prefer my choice of school/college/institution (Section I of the EHCP) because:

The Ofsted Report shows that *** school has only fully trained staff with a high level of knowledge and experience of autism. All their classes are small and have support assistants which means he will be constantly supervised. This fulfils the recommendations of the EP in their report of

(please continue on a separate page if necessary)

Section 4: Reasons for asking for a recommendation for Health and/or Social Care

Appeals against Health and Social Care can only be brought to Tribunal if the educational parts of the EHC plan are also being appealed (i.e. sections B,F or I). You must have ticked the related boxes at the end of section 2. Tribunal are only able to make non-binding recommendations. However, the LA and health care commissioners are expected to follow them.

You can ask the Tribunal to recommend that your child's health & social care needs and support in the EHC plan are:

- Made clearer or more detailed
- Changed
- Included if they are missing

The tribunal will **not** make decisions where medical professionals have made different clinical diagnoses or have made different recommendations about health provision

Complete in the same way you would for Sections B & F and use a separate piece of paper if needing to write more. (Make sure you reference this as Section 4 and use these specific headings).

Remember: Any health or social care provision that educates or trains a child or young person should be in section F of the EHC plan (e.g Speech & language therapy provision, travel training)

I disagree with the health care needs and health provision (Section C and G if concerning an EHC plan) because:

Complete this box if you feel that the Health Care provision isn't detailed, specific or quantified (ie. The EHC plan doesn't say What will happen, who will be involved (& is responsible), the frequency of support & when the support will be reviewed). Non health specialists should be able to understand it.

I want the Tribunal to make a recommendation about the health care needs and health provision (Section C and G if concerning an EHC plan) as follows:

Use this box to tell the tribunal what you would like to see changed in the EHC plan. For example if the Plan omits any of your child's health needs, state which ones and point to any supporting letters or information from any health professionals which describe these needs. You will likely need to add in any provision that is missing or needs specifying.

I disagree with the social care needs and social care provision (Section D and H if concerning an EHC plan) because:

As above but for social care

I want the Tribunal to make a recommendation about the social care needs and social care provision (Section D and H if concerning an EHC) as follows:

As above but for social care

(please continue on a separate page if necessary)

Section 5: Making the appeal

Which local authority made the decision that you are appealing against?

This will be 'West Sussex'

What is the date on the decision letter from the local authority?

The date of the letter that you received with your Final / Final Amended or telling you that no amendments will be made.

Late appeal or no mediation certificate

You must send your appeal to the Tribunal no later than 2 months from the date of the Local Authority's decision letter or within one month of the date of the mediation certificate, if later.

If the appeal is submitted to the Tribunal more than 2 months after the date of the Local Authority's letter or one month after the date of the mediation certificate, you must set out in writing the reasons for the delay and why you think the appeal would succeed if time for making the appeal is extended. If you do not do so, the papers will be returned to you without being registered or seen by a Tribunal Judge.

If you do not have mediation certificate you must set out in writing why you have not been able to get one. If you do not give an explanation, the papers will be returned to you without being registered or seen by a Tribunal Judge.

- My appeal is being made late
- I do not have a mediation certificate

Please explain why this has happened:

Very occasionally, something will go wrong and the deadline dates get missed. This may be because:

- Something went wrong when dealing with Global Mediation
- You thought the LA had agreed to make changes (ie in a meeting) but this is not the case and you have missed the deadline.

Explain clearly and concisely why your appeal is late, with supporting evidence if you have any.

Section 6: Who is making the appeal?

I am making this application to appeal.

Please tick only one of these options – see page 1 for explanations:

- Parent or other – on behalf of a child under 16 years old
- Young Person – aged 16 and under 25 years old
- Alternative Person – making an appeal in the ‘best interests’ of a young person who does not have the Mental Capacity to bring an appeal themselves

A. Details of first person making the appeal

- Mr Mrs Miss Ms
 Other

Surname

First name(s)

If you are not the Young Person, what is your relationship to the child or Young Person e.g. parent, foster parent

Home address

Postcode

Daytime phone number

Mobile phone number

Email address

If you are the mother completing the form then the second person may be your child’s father (or vice versa).

It may be the foster parent, Special Guardian etc

B. Details of second person making the appeal

Mr Mrs Miss Ms

Other

Surname

First name(s)

If you are not the Young Person, what is your relationship to the child or Young Person e.g. parent, foster parent

Home address

Postcode

Daytime phone number

Mobile phone number

Email address

Section 7: Who else is involved in the appeal?

If any other person or organisation shares parental responsibility for the child or has been appointed as a Deputy by the Court of Protection for a Young Person, please give the name and contact details of each person or organisation and confirm that you have notified them of the appeal:

If you believe they should not receive details of the appeal, please explain why:

If any other court or tribunal has made an order concerning the child or young person, including the family court, you must provide the details:

Your advocate

If you are a Young Person making the appeal, do you have an advocate to support you to express your views. Who are they?

Please note: SENDIAS do not act as Advocates or representatives (even if we agree to attend the hearing with you). Please do not put in our details on this form. Once your appeal is accepted, you will be sent an attendee form. Our details will go on this, once it has been confirmed that we will be attending. Unfortunately, we are not able to attend hearings with everyone.

Mr Mrs Miss Ms
 Other

Home address

Surname

First name(s)

Postcode

Relationship to you e.g. parent, guardian, family member, friend, paid advocate.

Daytime phone number

Mobile phone number

Email address

Your representative

Have you appointed a representative to support you in making the appeal? Yes No

Please provide their contact details

Mr Mrs Miss Ms
 Other

Contact address

Surname

First name(s)

Postcode

Relationship to you e.g. parent, guardian, family member, friend, paid advocate.

Daytime phone number

Mobile phone number

Email address

Who should receive information about the appeal?

We can only send papers and documents to one of the people named on this form. If you do not say otherwise, we will send them to your representative.

Papers and documents should be sent to:

Young person Parent 1 Parent 2
 Advocate Representative

Section 8: The hearing – your needs and requirements

This is about you and YOUR needs to help the tribunal support you and remove any barriers to your participation.

Please tell us here about any special needs you may have which we need to take into account when arranging your hearing. This might be things such as hearing loops or disabled access.

Question 1 – Your needs

Do you have any special needs? Yes No

If Yes, please tell us about this in the box below:

Question 2 – Your signer or interpreter and language requirements

Do you require an interpreter or signer to assist you at the hearing? Yes No

If Yes, please tell us the language and dialect required below

Language or type of sign language interpreter

Dialect

We will arrange for a professional interpreter to be present at the hearing.

Section 9: Paper hearing

If your paper evidence is strong you may chose for the Tribunal to make a decision this way (and avoid having to attend the hearing).

If the Tribunal agrees, do you agree that the appeal can be determined on the written evidence without an oral hearing? Both parties and a Judge must agree to the appeal being heard on the papers, only after the Local Authority's response has been received. Yes No

I consent to the final hearing of the appeal being listed on an earlier date if one becomes available Yes No

Existing claims/appeals

Is there another current appeal or claim in relation to this child or a sibling, that is being dealt with at the moment? Yes No

If Yes, please give the appeal number

Section 10: Checklist

You need to make sure that all the documentation listed below is sent with your appeal otherwise it will be rejected.

I confirm that the following documentation is enclosed with this appeal form:

- A signed and dated letter from the Local Authority giving you the right of appeal to HM Courts & Tribunals Service (Local Authority decision letter)
- A copy of the signed mediation certificate or I confirm that my appeal is about the school/college/institution or type of school/college/institution only whereby a mediation certificate is not necessary
- Your reasons for making the appeal (see section 2 of the appeal form)
- A copy of your child's EHC plan and all the documents listed in Part K (where a plan has been issued)
- The appeal form has been signed and dated

Section 11: Please sign below

1 st Parent or Young Person's signature	<input type="text"/>	<i>If you are sending your appeal via email please type your name in the signature box.</i>
2 nd Parent signature	<input type="text"/>	
Representative signature (a qualified lawyer can sign on your behalf with your permission)	<input type="text"/>	Who are you representing?
		<input type="checkbox"/> 1 st Parent
		<input type="checkbox"/> 2 nd Parent
		<input type="checkbox"/> Young Person
Date	<input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/>	

Section 12: Sending us your appeal

When you have completed the appeal form and signed it, please send it and all other relevant documents to:

Email: **send@Justice.gov.uk** (not the address on the form - send@hmcts.gsi.gov.uk)- write in the subject line of your email **'New Appeal'** to ensure it is dealt with quickly. If you want to post

Tribunal prefer your appeal and paperwork to be emailed but if you want to post your appeal, you can do by sending to the address below. It is recommended that you send photocopies and send recorded delivery. Remember to put the heading of New Appeal if you email. And keep a copy of the form.

HM Courts & Tribunals Service
Special Educational Needs and Disability Tribunal
1st Floor, Darlington Magistrates Court
Parkgate
Darlington DL1 1RU

Please keep a copy of the appeal form.

The following is the list of documents that you will be including as your supporting evidence. It will help the tribunal if in the last column you include what the relevance is. For example:

- Assessment of needs
- Record of child’s fixed term exclusions
- Placement suitability
- Parental Views
- ILP
- Email showing

When sending your appeal to the Tribunal please list all the documents and evidence you are sending in using a table format as shown below.

Date of document	No. of pages	Name of person who signed or wrote it and the type of document	What is the relevance of this document?
<i>21.11.16</i>	<i>25 pages</i>	<i>Dr M. Smith, Educational Psychologist</i>	<i>Assessment of needs</i>

Further information:

- [Send37](#) is guidance from the SEND Tribunal about how to complete the form as well as other useful information about the appeal.
- Ipsea’s Get Support Pages for [Appeals](#)
- Youtube guidance for specific sections:
 - [SEND Tribunal Appeal Form 35 Introduction - YouTube](#)
 - [Appeal form 35 Sections 1 & 2 - YouTube](#)
 - [Appeal form 35 Section 3 - YouTube](#)
 - [Appeal Form 35 Sections 8 & 9 - YouTube](#)