

Lodging an Appeal

- First Tier Tribunal (SEND)



Please note: 'child' = 'child or young person'

What can I appeal?

The SEND Code of Practice 2015 says that parents and young people can appeal to the SEND Tribunal about:

- a decision by the Local Authority (LA) not to carry out an Education, Health and Care needs assessment or re-assessment
- a decision by a LA that it is not necessary to issue an Education, Health and Care Plan (EHCP) following an assessment
- the description of a child or young person's SEN specified in an EHCP (Section B),
- the special educational provision specified in the EHCP (Section F),
- the school or other setting named in the EHCP, or the fact that no such setting has been named (Section I),
- any amendment to sections B, F or I of the EHCP,
- a decision by the LA not to amend an EHCP following an annual review or re-assessment
- a decision by the LA to cease to maintain an EHCP

If appealing one or more of the above, you can also appeal sections C, D, G & H (Health and Social Care Needs and Provision). However, Tribunal can only make recommendations on health and social care provision, not legally binding orders as with education.

Mediation

Before bringing an appeal to tribunal, you need to have considered mediation. The purpose of mediation is to look for a way forward that all parties agree with. It is not compulsory but must be considered*. You will need to have a mediation certificate to submit with your appeal. This certificate proves that you have considered mediation but declined it or, that you requested mediation, but the LA have not responded.

*If you are appealing **only** on Section I of the EHCP (placement) – a mediation certificate is not needed to lodge the appeal.

In West Sussex, mediation is provided by 'Global Mediation' (see 'useful contacts' at end of factsheet).

Parent carers who want to lodge an appeal should contact 'Global Mediation' who will help them decide whether to take up the option of mediation before appealing. If you choose mediation, a meeting will be arranged within 30 days. If you decide against it, the mediation certificate should be issued within 3 days.

We would always suggest a parent carer considers mediation. It does not prevent an appeal from being lodged but it gives an opportunity for you and the LA to re-consider the situation and possibly reach an agreement locally. Keep talking to the LA throughout this process, as it does not affect your appeal in any way.



Timescales for lodging an appeal

You have **two calendar months** from the date on the letter from the LA giving the decision, in which to lodge your appeal with the SEND Tribunal, **or a month from the mediation certificate**. Whichever is the later.

SEN Appeals can sometimes take several months to a year to be heard, depending on the circumstances. The Tribunal will usually consider priority hearings for Age Phase transfers and children not attending school. Please make it clear in your appeal form if you are asking for a

'priority hearing' and also make it clear in the subject line of the email when you submit your form.

How do I appeal?

To submit an appeal, you will need to complete an appeal form. If it is against a Refusal To Assess decision you will need [SEND 35a](#). For all other appeals you will need to complete [SEND35](#). Please note: the boxes in the forms only expand a little so you may find it easier to write the reasons for your appeal on a word document or piece of paper first and then complete your form when you are ready. You can continue on a continuation sheet if it doesn't all fit. For more information, please check our [web guides on 'Appeals'](#).

When you are ready to submit your appeal, make sure you have the mediation certificate (if required) and all the other documentation on the checklist at the bottom of the appeal form. You can post it all to the SEND Tribunal, but they do prefer you to email where possible:

send@justice.gov.uk

Paper Hearings

'Refusal to Assess' appeals are usually heard on papers and information submitted, without the need for an oral hearing, but you can ask to attend an oral hearing if preferred. For other appeals, you would normally attend the hearing but, you can ask the tribunal for the decision to be made on papers only instead. You will need to tick the correct box on the Appeal form and give an explanation if asked.

USEFUL CONTACTS

Global Mediation: 0800 064 4488

www.globalmediation.co.uk

SEND Tribunal: 01325 289350

send@justice.gov.uk

SEN Assessment Team (SENAT)

Contact Team SOUTH: Email: SENAT.South@westsussex.gov.uk Tel: 03302223120

Contact Team NORTH: Email: SENAT.North@westsussex.gov.uk Tel: 03302222722

IPSEA Tribunal Helpline: www.ipsea.org.uk/tribunal-helpline

(call-back bookable online)

If you would like to find out further information about [appeals, mediation, disagreement resolution and complaints](#) then see our [webpage guide on the SENDIAS website](#).



Service Statement

The role of the SENDIAS service is to ensure all parents, children and young people have access to impartial information, advice and support so they can make informed decisions related to their situation. Any information that is shared with the service is in confidence unless permission has been obtained to share this with any individuals, services and agencies that may be able to help in the circumstances. For more detail, view our [policies and privacy notice](#) on our website.

How to contact us: Tel: 0330 222 8555 / Email: send.ias@westsussex.gov.uk or cyp.sendias@westsussex.gov.uk (up to age 25) / Website: www.westsussexsendias.org

To view factsheet online and access all links: <https://tinyurl.com/btwbxzep>

or scan QR code:

