Application for appeal

Refusal to secure an EHC Needs Assessment

Child or Young Person

You should use this form to appeal against a decision made your Local Authority (LA) not to secure an EHC needs assessment of a child or a Young Person. A child is aged 0 – 16 years. A Young Person is anyone aged 16 years or over who is over statutory school age but under the age of 25 years.

All appeals against an LA's refusal to secure an EHC needs assessment will be decided by the Tribunal following consideration of the written evidence without an oral hearing. Unless you tell us otherwise, your consent will be presumed. If you wish to have an oral hearing of the appeal you must tell us and this will then be arranged.

Who can bring an appeal?

Appeal concerning a Child

An appeal concerning a child can be brought by a parent or parents, someone with parental responsibility or someone who cares for a child. That person can appoint a representative to act on their behalf during the appeal process including at the hearing if they wish to do so. They can also have an additional person, a parental supporter, to attend an appeal hearing to give them further support.

Appeal by a Young Person

It should always presumed that a Young Person has the mental capacity to make an appeal to the Tribunal. An appeal made by a Young Person will be often be with the support of an advocate. An advocate can be a parent, family member or other individual including someone who is paid to do so. A Young Person can also appoint a representative to act on their behalf during the appeal process, including at the hearing.

If a Young Person cannot bring an appeal themselves – making an appeal as an Alternative Person?

If a Young Person does not have the mental capacity to bring an appeal and/or to make decisions about the appeal, then it can be brought by an Alternative Person acting in the best interest of the young person. This will be any Deputy appointed by the Court of Protection or if no appointment has been made, then usually a young person's parents. It could also be a family member or someone form the LA's social care team. The Tribunal will still want to know what the Young Person's views are on the issues in the appeal but it is the views of the Alternative Person which they will consider in reaching their decision in the appeal. An Alternative Person can also appoint a representative during the appeal, including attending at the hearing if they wish to do so.

Who can be an advocate?

An advocate is someone who knows you, who understands what you think about the issues in the appeal and so can speak on your behalf. For a young person, they can be a parent, family member, friend or a paid advocate. If a parent is disabled, they may also be able to have an advocate. They are not someone who can give advice on the issues in the appeal.

Who can be a representative?

A representative is someone who will give you advice on the issues in the appeal, prepare the paperwork on your behalf and may represent you at the Tribunal hearing. They can also be an advocate. They could be a volunteer from a charity, a paid representative, a solicitor or barrister. Most appeals are made to the Tribunal without a representative. The Tribunal will support both parties through the process of making an appeal, to ensure that it is decided fairly and justly.

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About this form

This form helps you provide all the information the Tribunal requires to register an appeal. It will also ensure that your appeal contains all the necessary details required by law.

How to fill in this form

Please use BLOCK CAPITALS unless the forms tell you not to or complete the form using a computer to send it to the Tribunal.

Contact Details

The Tribunal's preferred method of communication is by email, phone or text, so it is crucial that you let the Tribunal know of any change of email or phone number.

Section 1: Who is the appeal about?

☐ A **child** under 16 years old

☐ A **young person** aged 16 or over and under 25 years old

If the young person is 16+ then the appeal should be from them (not from parent).

The child or young person's surname

The child or young person's first name(s)

Gender

☐ Male ☐ Female ☐ Other

Date of birth

Section 2: Reasons for appeal

It is important to tell the Tribunal why you disagree with the LA decision not to secure an EHC assessment and refer to any written evidence you have to support your case.

Legal Test the Tribunal will apply

The legal test for deciding whether to secure an EHC needs assessment is contained in the Children and Families Act 2014 s. 36(8).

The Tribunal will decide two questions in the appeal:

Question one: Whether the child or young person has or may have SEN?

Describe any special educational needs that the child or young person has:

Please see RTA Section 2 Guidance for more information about what to include in this section

Here is where you can describe any needs (difficulties) you feel your child may have. Keep it short. Separate your points into short paragraphs or bullet points. Use Headings for specific points. Don't get bogged down in history, just keep to what is relevant.

Include any diagnosis if they have any. List your child's SEN & confirm whether these are diagnosed/diagnosed / under assessment etc. For example:

- XX has Autism/ADHD - diagnosed on xx/xx/xx by xx which shows they struggle with sensory difficulties especially too much noise, Social Communication which… etc
- XX shows Dyslexic Traits - Identified by xx (school) via assessment on xx/xx/xx which shows they struggle with xx, xx
- XX has speech and language difficulties – they are non-verbal, stutter, use pecs, sign language etc.

Describe any special educational needs which you consider the child or young person may have which have not yet been fully identified:

Here is where you would list and describe anything that your child may be struggling with but needs further investigation to explain why. This may also include any Mental Health / Emotional Wellbeing / Behavioural issues, impacting on ability to access schooling full time. For example:

- XX is not disruptive at school but does not cope well with the classroom situation and learning styles. Not able to cope with eating lunch with interacting with peers/working in large groups etc.
- XX lacks confidence/gets anxious around schoolwork - doesn't understand/can't start or finish the work. Certain lessons are a particular difficulty.
- XX is socially isolated in school/cannot understand or return usual social cues. Rarely interacts with/takes part in whole class activities etc.

For more examples refer to the RTA Section 2 Guidance in the Practical Guide Series

Question two: Whether the child or young person may require an EHC plan?

Explain why you think the child or young person may require an EHC plan:

Here is where you can state how you think an EHCP will help your child and what things you think they might need to support them (that SEN Support at school cannot). If your child is out of school, how the EHCP will support their education or a return to school.

- 'The last 4 ISPs show that XX has not met his outcomes despite having a designated 1:1 and frequent reviews and with support being changed.
- The costed provision map shows that £6,000 of support is already being given (and has been for the past 2 years) and outcomes are still not being met. It is therefore likely that extra support will be needed through the provision of an EHCP.
- XX requires a smaller, calm environment with teaching delivered at their own pace, which mainstream is not able to provide (and not within their SEN Support funding).

For more examples refer to the RTA Section 2 Guidance in the Practical Guide Series

(please continue on a separate page if necessary)

Section 3: Making the appeal

LA decision

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

Will usually be 'West Sussex' if you have a West Sussex address

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

Put the date of the 'Refusal to Assess' decision letter that you received from the LA

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:

You should already have a mediation certificate from Global Mediation, if you contacted them within 2 months of the LA's Decision Letter. If for any reason you contacted them later than this and Global refused to issue you a certificate then you will need to explain why here.

If it is late (after the 2 months deadline) then tick the first box 'My appeal is being made late'.
If you do not have a certificate (because you were too late, or you have lost it), tick the box 'I do not have a mediation certificate' and explain why in this box.

Section 4: Deciding your appeal

The Tribunal can decide the appeal on the papers without an oral hearing if you and the LA consent and the Tribunal concludes that it is able to decide the case on the papers. The Tribunal can list paper hearings at short notice, and if you consent to a paper hearing, it may lead to an earlier decision being made in the appeal.

☐ I consent to the appeal being concluded on the papers without an oral hearing

The paperwork should speak for itself, and the Judge can usually decide based on this. If you feel that more explanation is needed, you can request an oral hearing. However, this will take longer to be heard. Tick the box if happy with Papers only, leave blank if oral hearing is wanted.

Existing claims/appeals

Is there another current appeal in relation to this child/young person or a sibling, that is being dealt with by the Tribunal?

☐ Yes, and my appeal number is

Tick yes or no as applicable

☐ No

Do you have an existing Disability Discrimination Claim for this child or Young Person registered with the Tribunal?

☐ Yes, and the date of my claim is

Tick yes or no as applicable

and my claim number is

☐ No

If possible, would you like these appeals/claims to be heard at the same time?

☐ Yes

☐ No

Section 5: 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 [An Alternative person may be a parent for the young person. If there is a court appointed Deputy, then their name should be put here instead.]

A. Details of first person making the appeal

☐ Mr ☐ Mrs ☐ Miss ☐ Ms

☐ Other _____

Surnam

First name(s)

Home address

Postcode

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

Daytime phone number

Mobile phone number

Email address

B. Details of second person making the appeal

☐ Mr ☐ Mrs ☐ Miss ☐ Ms

☐ Other _____

Surnam
e

First name(s)

Home address

Postcode

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

Daytime phone number

Mobile phone number

Email address

Section 6: 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:

Here you can state if parental responsibility is shared with anyone else i.e. with Social Care.

If this does not apply just write N/A

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

If there are compelling grounds as to why they should NOT receive details of the appeal (either from yourself or the LA) then state your reasons clearly here.

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:

If an order has been made about your child, or young person then it is important that this is detailed here.

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?

☐ Mr ☐ Mrs ☐ Miss ☐ Ms

☐ Other _____

Surname

First name(s)

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

Home address

Please see notes on Page 1 of this appeal form

Please do NOT add a SENDIAS adviser's details in here.

Postcode

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 _____

Surname

First name(s)

Contact address

Please see notes on Page 1

Please do NOT add a SENDIAS adviser's details in here.

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:

☐ Advocate ☐ Representative

Section 7: The hearing – your needs and requirements

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

Let them know here, if you struggle with SEN yourself

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

If having an Oral Hearing, let them know here if you need a translator or sign language interpreter needs to be present at the hearing

Dialect

State specific language and Dialect here.

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

Section 8: Checklist

Tick the boxes below when you have all the evidence. This will need to be submitted with your evidence you list in Section 11

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**
- ☑ Your reasons for making the appeal
- ☑ The appeal form has been **signed and dated**

Section 9: Please sign below

1st Parent or Young Person's signature: Type your name here if your child is under 16

2nd Parent signature: 2nd Parent here

Representative signature (a qualified lawyer can sign on your behalf with your permission): If a young person, they should sign their name above & their legal representative sign in this box

Date ☐☐/☐☐/☐☐☐☐

If you are sending your appeal via email please type your name in the signature box.

Who are you representing?

- ☐ 1st Parent
- ☐ 2nd Parent
- ☐ Young Person

Section 10: 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 -** write in the subject line of your email '**New Appeal**' to ensure it is dealt

with quickly

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

Fax: 0870 739 4017

If you need to contact us by telephone our number is: 0300 303 5857

Do not forget to scroll down to list the evidence you will be enclosing.

Section 11: Evidence to be considered in the appeal

Please list the documents you are sending with the appeal, the date of each document and number of pages, its author (if known), and, if it is not obvious, why the document is relevant.

The type of evidence that will assist the Tribunal in making their decision includes:

- Any document which helps the Tribunal to understand a child or young person's special educational needs (e.g. a relevant medical report, an assessment by a therapist or psychologist)
- Documents provided by a school or college setting out any support the child or young person receives (e.g. SEN Support Plan, Behavioural Support Plan, notes from any meetings with professionals)
- Correspondence with the school or college about any issues (e.g. part-time timetable, exclusions)
- Other educational documents recording the level that the child or young person is working at or progress they have been making, for example latest school report,
- Other documents (for example a statement from another parent, another organisation)

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?**
21.11.16	*25 pages*	*Dr M. Smith, Educational Psychologist*	*Assessment of needs*
		List any reports, letters, emails being used as evidence to support the appeal	

EXAMPLE EXAMPLE EXAMPLE

The Ministry of Justice and HM Courts and Tribunals Service processes personal information about you in the context of tribunal proceedings.

For details of the standards we follow when processing your data, please visit the following address https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter

To receive a paper copy of this privacy notice, please call 0300 123 1024 Textphone 18001 0300 123 1024.
If calling from Scotland, please call 0300 790 6234 Textphone 18001 0300 790 6234.

BEFORE SENDING:
Check the whole form again and make sure you have the evidence ready to attach to the email (or if sending hard copies via post - send recorded delivery for protection)