



4. WHAT YOU CAN DO IF YOU DISAGREE

YOU DISAGREE WITH THE LOCAL
AUTHORITY DECISION NOT TO
ASSESS YOUR CHILD FOR AN EHCP
OR TO ISSUE A PLAN, OR WITH THE
FINAL EDUCATION, HEALTH AND
CARE PLAN

Remember that at any point, if you
can't agree on any aspect of the plan,
you can ask to take part in
disagreement resolution. This is in
ADDITION to any mediation or appeal.
*If your appeal is only about
placement you do not have to seek
mediation first

For decisions where there
is no right of appeal
to the First Tier Tribunal, decisions
can be challenged via Judicial Review.
Families will need legal advice in
relation to Judicial Review and legal
aid may be available to pay for this
in some circumstances.

If you are not satisfied with either a local authority's decision not to assess
your child for an EHCP, OR not to provide an EHCP after a statutory
assessment, you can appeal to the SEND Tribunal.
Appealing to the First Tier Tribunal can be done in the name of the parent
or the child/ young person.
Additionally, if you are unhappy with any of the needs or provision or
placement offered in your child's final EHCP, you can also appeal.

There is a trial underway currently (2018/19) to include health and social
care as a single route of appeal. Please check the status of this at the time
of your appeal. A large percentage of appeals are settled at 'case
management' stage, via telephone hearings.
If you lose your FTT appeal, you can take legal advice in consideration of a
further appeal to the Upper Tribunal, usually on a point of law.



Before appealing about

1. Refusal to assess,
2. Refusal to issue an EHCP, OR
3. The SEN part of an EHC plan

you must first contact a mediation advisor.
The LA must inform you about how to do
this*. The mediator will give you evidence
that you have done so. You will be
encouraged to participate in mediation,
however, this is not compulsory if you feel
that mediation will not work. If at all
possible, keep the lines of communication
open - you can still reach an agreement
that works for your family at any time up
to the date of Tribunal.

To appeal, you have two
months after the local
authority's decision.
You can register an
appeal when you have a
certificate from the
mediator. If you choose to
go to mediation & it fails,
you will have a minimum of a
month after that to register
an appeal.

Full details can
be found in
Chapter 11 of the
SEND Code of
Practice

If you do decide to head for the SEND Tribunal, there are free sources of legal advice to
help such as:

IPSEA www.IPSEA.ORG.UK

SOSSEN: www.SOSSEN.ORG.UK

Contact A Family SEN line www.Contact.org.uk

IASS for young people: cyp.iassnetwork.org.uk

IASS: <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network>

(SNJ advice: It is not advisable to go to appeal without seeking specialist legal advice and/
or advocacy support such as above)

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