



## 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](http://www.IPSEA.ORG.UK)

SOSSEN: [www.SOSSEN.ORG.UK](http://www.SOSSEN.ORG.UK)

Contact A Family SEN line [www.Contact.org.uk](http://www.Contact.org.uk)

IASS for young people: [cyp.iassnetwork.org.uk](http://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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