

**Education, Health and Care (EHC)
Guidance Information Sheet for Appeals via Disagreement Resolution Services, Mediation
and First-tier Tribunals**

This guidance sheet provides information on what you can do if you disagree with any local authority decision about an Education Health and Care plan, including:

- Decisions not to carry out an EHC needs assessment
- Decisions not to draw up and issue an EHC plan
- After a final EHC plan is issued
- Decisions not to amend an EHC plan
- Decisions to cease an EHC plan
- If there is a disagreement about the education, health, and social care elements of an EHC plan

If you find yourself disagreeing with the local authority about one of more of the above, you can look to address your disagreement through several routes as follows:

Disagreement Resolution Services (DRS)
Mediation
First-tier Tribunal
Extended Appeals

Information on each of these routes is detailed below. You can also seek information about SEND appeals by contacting the SEN and Disability Information Advice and Support Service (SENDIASS) provider.

SENDIASS is a free, confidential and impartial rights-based service that provides information, advice and support to families of children and young people with SEND (up to the age of 25).

The website and contact details for our local SENDIASS provider KIDS can be found later on in this information leaflet.

Disagreement Resolution Services (DRS)

Every LA must commission an independent disagreement resolution service (DRS) that is available to parents and young people. The service is available to support all children and young people with Special Educational Needs (SEN), and NOT only for those progressing through the EHC assessment process or who have an EHC plan. The process is informal and acts to enable meaningful discussions to take place. The facilitator of a DRS meeting is an expert in disagreement resolution and completely independent from everyone involved.

The facilitator will understand SEN processes, procedures, and law, which enables them to guide discussions. They do not take part in any decision making.

What can a DRS service be used for?

A DRS service may be used in relation to four types of disagreement that **cannot** be appealed to the SEND First-tier Tribunal. These four specific types of disagreement are set out in the *SEND code of practice*, 11.8 (DfE, 2015) and are detailed below:

1. Disagreements with your local authority, your school, early years' setting or college about how they are carrying out their education, health, and care duties.

This applies if your child has any kind of SEN – not just those who are going through Education, Health and Care (EHC) needs assessment or have an EHC plan

2. If you disagree with your early years' settings, school or college about the SEN provision they are making

This applies if your child has any kind of SEN – not just those who are going through an EHC needs assessment or have an EHC plan

3. If you disagree with your local authority (LA) or Clinical Commissioning Group (CCG) about the health or social care provision during your child's EHC needs assessment

Or about their EHC plan, and any review or reassessment of the EHC plan

4. Disagreements between local authorities and CCG's during an EHC assessment, whilst an EHC plan is being drafted or reviewed – (These disagreements do not include parents or young people)

If, following participation in a Disagreement Resolution, you still cannot reach agreement about all or part of the decision you need to follow the appropriate organisation's own complaints procedure. Details about these can be found on the organisation's own websites.

SENDIASS, KIDS can also help and support you through this process.

SEN Mediation

Every LA must commission an independent mediation service that is available to parents and young people. Parents and young people who wish to make an appeal to the First-tier Tribunal are required to contact an independent mediation adviser (unless the disagreement is about

placement only) and discuss whether mediation might be a suitable way of resolving a disagreement.

After seeking mediation advice, the decision about whether to follow the mediation route is up to the parents or young person.

If after receiving mediation advice, a parent or young person chooses to participate in mediation, the local authority **must** ensure that a mediation meeting takes place **within 30 days** of being informed by the independent mediation service.

If a parent or young person decides not to engage in a mediation meeting with the local authority they will be issued with a **certificate**, confirming that they have received advice and guidance. On receipt of the certificate a parent or young person can then proceed with their disagreement and register their wish to appeal to the First-tier Tribunal.

Hull residents can access independent mediation advice and guidance through *Community Accord*. On contact, Community Accord will provide some immediate information and arrange to call you back, to complete the full mediation advice call, which can take up to 30 minutes.

Contact details for Community Accord are:

Community Accord. Telephone number 01274 223313

e-mail: info@communityaccord.com

Website: www.communityaccord.com

First-tier Tribunal (SEN and Disability)

Specific decisions relating to EHC needs assessments, specific aspects of the content of EHC plans, or the decision to cease an EHC plan can be appealed by parents or young people through the First-tier Tribunal SEND.

First-tier Tribunal (Special Educational Needs and Disability) (also referred to as the “SEND Tribunal”), is an independent national tribunal which hears parents’ and young people’s appeals against LA decisions about the special educational needs of children and young people.

Sections of an EHC plan that can be appealed to the First-tier Tribunal are

- Section B - details of the child/young person’s special educational needs
- Section F - details of the special educational provision
- Section I - details the name and type of the school or institution to be attended by the child or young person.

To register an appeal to the First-tier Tribunal you will need to consider mediation and have been issued with a mediation certificate unless your disagreement is about section I (named placement) of the EHC plan.

If you **do not** want to engage in mediation but wish to appeal to First-tier Tribunal you will have **eight weeks** to register an appeal from the date of the letter received from the local authority confirming their decision about:

- an EHC needs assessment or
- an EHC plan
- the issue of a final EHC plan

If you **have been to mediation and remain unhappy** you will have **one month** from the date of the mediation certificate issued to register your appeal to the First tier Tribunal.

Further information about how to register an appeal to the First-tier Tribunal can be provided by the SEN and Disability Information, Advice and Support Service (SENDIASS).

To register an appeal you should contact *Community Accord* as soon as possible (details above)

Alternatively, you can contact:

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

Tel: 01325 289350

General fax: 0870 7394017

General email: send@justice.gov.uk

Website: www.justice.gov.uk/tribunals/send

Extended Appeals

(The right to request non-binding recommendations about health and social care needs and associated provision detailed in the EHC plan.)

The Government have extended the powers of the First-tier Tribunal (SEND), to make non-binding recommendations about the health and social care aspects of Education, Health and Care (EHC) plans.

Extended Appeals gives you the right to request recommendations from the First-tier Tribunal about the health and social care needs and provision specified in EHC plans, in addition to the educational aspects, when making a SEND appeal. This gives you the opportunity to raise all your concerns about an EHC plan in one place.

It is only possible for the Tribunal to consider the health and/or social care aspects of the EHC plan where you are already making an appeal in relation to the education aspects of the EHC plan (sections B, F, and I) and the education aspect must remain live throughout the appeal.

If you wish to appeal against a local authority decision on any of the grounds above and want to request that the First-tier Tribunal considers your concerns about the health and /or social care aspects of the EHC plan, you should **follow the normal process for bringing an appeal to the Tribunal and tick the box on the form relating to a health and/or social care appeal**. Advice on making SEND appeals to the Tribunal is available from www.justice.gov.uk/tribunals/send

Further information and advice

Further information about disagreement resolutions services, mediation and SEND First tier tribunal is available from:

The SEN and Disability Information, Advice and Support Service (SENDIASS)

KIDS

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Email: enquiries.yorkshire@kids.org.uk

www.kids.org.uk/hull-sendiass

