

What is the SEND Tribunal?

SEND Tribunal is the commonly used term for the First-tier Tribunal (Special Educational Needs and Disability) , which is an independent national tribunal which hears parents' and young people's appeals against Local Authority (LA) decisions about the special educational needs of children and young people.

Who can appeal?

To be able to appeal, you must be a parent or a young person over the age of 16. In education law 'parent' means you are either a birth parent, have acquired parental responsibility or have care of the child (e.g. a foster parent or grandparent with whom the child lives).

If the decision concerns a child, it is the parent who has the right of appeal. If the decision concerns a young person, then it is the young person who has the right of appeal.

There are no fees for parents or young people to pay.

Considering Mediation

Mediation is not compulsory, however, before bringing an appeal to the SEND Tribunal, you must have contacted the mediation service and received a certificate to prove that you have considered mediation. The exception is if you are only appealing about the school or other educational placement named or that no school or other educational placement is named.

What can you appeal?

You can bring an appeal to the SEND Tribunal if the Local Authority:

- refuses to carry out an EHC needs assessment or a Re-assessment of needs in an EHC plan;
- have carried out an EHC needs assessment but refused to issue an EHC Plan;
- decides not to amend an EHC Plan after an Annual review or at any point;
- decides that the EHC plan is no longer necessary and they are going to 'Cease to Maintain' the EHC Plan;

There are also rights of appeal about the contents of an EHC plan when first issued or reviewed/amended in a final form, specifically against:

- Section B: detailing the child or young person's special educational needs;
- Section F: setting out the special educational provision specified in the EHC plan;
- Section I: naming the school or other setting in the EHC plan (and/or the type of school or setting), or if no school or other setting is named.

When can you appeal?

In the majority of situations, if you wish to register an appeal with the SEND Tribunal you first have to contact a mediation adviser and consider mediation.

You must register your appeal with the SEND Tribunal within 2 months from the date of your decision letter from the Local Authority or 1 month from the date you obtain a mediation certificate, whichever is the later.

Extended Appeals - What about the Health and Care sections?

There is no legal right of appeal to SEND about the health and social care matters within an EHC plan. However, if you are already making an appeal in relation to the educational aspects of the EHC plan, the **Single Route of Redress – Extended EHC plan Appeals (formally known as "National Trial")** gives you rights to also request recommendations about the health and social care needs and provision specified in EHC plans (Sections C, D, G, H1 & H2).

Extended appeals allow for recommendations to be made in relation to health and social care needs and provision specified in EHC plans as long as the educational aspect also remains live throughout the appeal.

This gives you the opportunity to raise all your concerns about an EHC plan in one place.

What sections can't you appeal?

Some sections of an EHC plan which are completely outside of the SEND Tribunal's scope:

- Section A – the views, wishes and aspirations of the child and his parents or the young person;
- Section E – the outcomes to be sought; and
- Section J – dealing with direct payments.

You cannot appeal about these sections of the EHC plan.

What the SEND Tribunal does

The SEND Tribunal looks at the evidence put before it and decides whether the LA decision followed the law and the Code. It will make a decision based on what is right for the child or young person at the date of the hearing.

The SEND Tribunal has the power to order LAs to carry out EHC needs assessments, issue EHC plans, and amend existing EHC plans. LAs must comply with orders made by the SEND Tribunal.

If the SEND Tribunal makes a recommendation about health or social care elements of an EHC plan, this is non-binding. However, it has been made clear that the expectation is that recommendations will generally be followed.

The SEND Tribunal also hears claims of disability discrimination against schools. Different timescales apply to disability discrimination appeals and you do not need to seek mediation advice if it is a disability discrimination claim.

For further information and/or support please contact:

Torbay Local Offer

Tel: [01803 210200](tel:01803210200)

Web: [Torbay SEND Local Offer - Family Hub \(torbayfamilyhub.org.uk\)](http://torbayfamilyhub.org.uk) &
[SEND Mediation and Tribunal Appeals - Family Hub \(torbayfamilyhub.org.uk\)](http://torbayfamilyhub.org.uk)

Torbay Special Educational Needs (SEN) Service

Tel: [01803 208274](tel:01803208274)

Email: ehcp@torbay.gov.uk

Web: [SEND Services - Torbay Council](http://torbay.gov.uk)

SENDIASS Torbay

Tel: [01803 210371](tel:01803210371)

E-mail: info@sendiasstorbay.org.uk

Web: www.sendiasstorbay.org.uk

Global Mediation

Tel: [0800 064 4488](tel:08000644488)

E-mail: sen@globalmediation.co.uk

Web: www.globalmediation.co.uk/service/special-educational-needs-disability/

HM Courts & Tribunal Service, Special Educational Needs & Disability

Tribunal, 1st Floor, Darlington Magistrates' Court,
Parkgate, Darlington,

DL1 1RU

Tel: [01325 289350](tel:01325289350) or [0300 303 5857](tel:03003035857)

Email: send@justice.gov.uk

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

SEND Tribunal



First-tier Tribunal (Special Educational Needs and Disability)

TORBAY COUNCIL