

## 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. A final 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)

SIGN UP TO SPECIAL NEEDS JUNGLE BLOG UPDATES  
[WWW.SPECIALNEEDSJUNGLE.COM](http://WWW.SPECIALNEEDSJUNGLE.COM)  
/SUBSCRIBE  
THANKS TO IASS NETWORK FOR ADDITIONAL INFORMATION

## 1. SEN SUPPORT IN SCHOOLS



Before you meet:  
Write down your concerns and points to raise. Consider taking a friend or partner to make notes so you can concentrate on the conversation.

If you disagree at any point, you can ask to involve the Disagreement Resolution service or speak to the Information, Advice & Support Services Network

IF YOUR CHILD'S NEEDS ARE CLEARLY SEVERE, AN EHCP ASSESSMENT MAY BE REQUESTED WITHOUT THE SEN SUPPORT STAGE (OR CONDUCTED BEFORE SCHOOL AGE)

START HERE:

YOU, OR YOUR CHILD'S SCHOOL ARE CONCERNED THAT YOUR CHILD MAY HAVE A SPECIAL EDUCATIONAL NEED

Meet with your child's class teacher and/or SENCo to discuss concerns



Agree on a plan of action using the Assess, Plan, Do, Review cycles & decide together which external assessments will be needed

Work with the school to see what services from the Local Offer your child can access to help them overcome any barriers to learning

If your child has a medical condition, ask to see your school's policy that complies with the Government's Statutory Guidance Supporting pupils at school with medical conditions. Ask how these guidelines can be used to support your child, if necessary

If progress is made, continue the cycle of Assess, Plan, Do, Review. However, at any point, if you feel the interventions are not working, you can choose to apply for a statutory assessment for an Education, Health and Care Plan

Make sure you meet the expert after they have carried out any external assessment on your child, so you can give them any extra information. You know your child better than anyone and your input is vital

There may come a point at which you agree your child has made sufficient progress and no further support is required. However, you can ask for SEN help again at any point if you think it is needed.

When the report(s) have been received ask to meet with the class teacher and SENCo again to revise any interventions in the light of the report recommendations. Agree a date for initial review

An EHCP can be requested by parent, young person, teacher or anyone else concerned about the child's SEN

On the review date, discuss with the teacher/SENCo how the interventions are working, any changes that need to be made and a further review date

Move to Flow Chart 2 "Requesting an EHCP"

WHERE, DESPITE THE SCHOOL HAVING TAKEN RELEVANT AND PURPOSEFUL ACTION TO IDENTIFY, ASSESS AND MEET THE SEN OF THE CHILD OR YOUNG PERSON, THE CHILD OR YOUNG PERSON HAS NOT MADE EXPECTED PROGRESS, THE SCHOOL OR PARENTS SHOULD CONSIDER REQUESTING AN EDUCATION, HEALTH AND CARE NEEDS ASSESSMENT.

When your application has been received, you should be given the details of your local SENDIASS who will be able to advise and support you through the process. These are free and impartial services who provide information, advice and support to children, young people and parents on a range of SEND issues, including your EHCP application. You can also search for resources on the Special Needs Jungle site and on the IPSEA website, among others.