

Health and Social Care – Single Route of Redress appeals



Guide No 46

September 2021

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First Tier Tribunal for Special Educational Needs and Disability (“SEND Tribunal”)

is independent of the local authority. The SEND Tribunal hears parents’ and young people’s (“YP”) appeals against local authority decisions about the special educational

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needs (“SEN”) of children and young people. The SEND Tribunal try to keep the appeal process as informal as possible although it is important to keep in mind appealing is a legal process.

Local Authority (“LA”) is the body who is responsible for making decisions about EHC needs assessments and EHC plans. These decisions carry a right of appeal to the SEND Tribunal.



Section One - Purpose of this guide and how to use it

The purpose

This document will give you a step-by-step guide to using the single route of redress as part of an appeal to the SEND Tribunal.

How to use it

The guide contains some practical tips and next steps which are relevant to using the single route of redress. Please read each section carefully. Depending on the type of appeal you are making to the SEND Tribunal, you should use this guide alongside one of our other guides which specifically relates to the right of appeal you have.

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If you are coming to the guide after you have sent in your appeal to the SEND Tribunal, there is still information and guidance in **section 3** which will assist you in obtaining evidence which can be used for the rest of your appeal.

Section 2 deals with information you need to know before making your appeal including:

- Information about the single route of redress
- When you can use the single route of redress
- What powers does the SEND Tribunal have?
- Who has the right of appeal?
- Information in the decision letter and time limits.
- Legal help.
- How IAS can help.
- What you need to do now to start building your reasons for appealing.

Section 3 deals with evidence and identifying evidence which could help your case. You may need to re-visit this section at different stages throughout your appeal.

Section 4 deals with consideration of mediation and starting the appeal process.

Section 5 deals with preparing for the deadlines once the appeal has been registered including the hearing.

Section 6 contains some real-life summaries of decisions from the SEND Tribunal which have involved health and/or social care recommendations. This will give you an idea of the types of recommendations they can make and the circumstances relevant to the recommendations.

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Section Two – Essential information you need to know and some frequently asked questions

Frequently asked questions

What is the single route of redress?

Since 3rd April 2018, the SEND Tribunal have been running a National Trial which has allowed it to become a single point of redress for children and young people with SEND who may also have health and/or social care needs.

The 'SEND tribunal: single route of redress national trial' guidance which has now been updated [here](#) on gov.uk.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1014438/DBOT_2122_single_route_of_redress_guidance_-_1_September_2021.pdf

The guidance has been updated to remove references to the National Trial which ended on 31 August 2021 and explains that the extended powers will continue, providing details on how appeals which include health and social care aspects (now known as extended appeals) will work.

This is a guide for all local authorities (LAs), health commissioning bodies and parents and young people in England on the extended powers of the First-tier Tribunal Special Education Needs and Disability (SEND) ('the Tribunal') to hear appeals and make non-binding recommendations about health and social care aspects of Education, Health and Care (EHC) plans, provided those appeals also include education elements.

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Asking the SEND Tribunal for recommendations – when does the right arise?

When the LA makes certain decisions about children/YP which carry a right of appeal to the SEND Tribunal, these decisions are permitted to be included in the single route of redress. They are as follows:

- A decision by the LA not to issue an EHC plan following an EHC needs assessment
- On receipt of a final EHC plan/amended EHC plan
- A decision by the LA not to carry out a re-assessment for a child/YP who has an EHC plan
- A decision by the LA not to amend an EHC plan following an annual review or re-assessment
- A decision by the LA to cease to maintain an EHC plan

This means all appeals, except refusal to assess decisions, can be included in the single route of redress. It is important to be aware that there **must** be an educational component to the appeal for it to be considered – health and/or social care issues cannot be pursued alone. However, if you are only concerned about the health care and/or social care issues alone then you still have the option of mediation which your right of appeal letter from the LA will tell you about.

What powers does the SEND Tribunal have?

The single route of redress allows the SEND Tribunal to make non-binding 'recommendations' to health and social care about your child/YP's needs and provision. Although these are non-binding but there is an expectation they will be followed. This means as well as having the power to order the LA to issue an EHC plan or make amendments to Sections B, F & I of an EHC plan (this has always been the case); the SEND Tribunal can now recommend changes to non-educational Sections of an EHC plan such as Sections C (health needs), D (social care needs), G (health provision), H1 and H2 (social care provision).

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Why use the Single Route of Redress and what can I ask for?

There are several reasons to consider. For example, advice not obtained as part of the EHC needs assessment or outdated advice from a professional where there is a waiting list to access a further assessment. This could be from a health care professional such as an Occupational Therapist, a professional from children and young people's mental health services or a Speech and Language Therapist. Although these are healthcare professionals, their findings after an assessment may identify needs which leads to provision for your child/YP which 'educates or trains' them. Any health or social care provision which 'educates or trains' becomes special educational provision for the purpose of the law.

In a refusal to issue an EHC plan appeal, this may lead to further evidence that the special educational provision your child requires can only be provided through an EHC plan.

In an appeal about the 'contents of your child/YP's EHC plan, this may lead to further evidence that your child/YP requires such provision to be properly detailed in Section F of their EHC plan.

Even if the health or social care provision your child/YP requires does not 'educate or train' them, the provision/service your child/YP requires may be lacking without a recommendation from the SEND Tribunal.

Health provision could be medical/nursing support and specialist medical training for staff who work with your child/YP. It could be provision of incontinence pads and/or other medical equipment such as a wheelchair.

Social care support and provision is sometimes misrepresented as being solely about parenting and/or child protection. This is incorrect. If your child/YP is disabled, they may qualify for service that could benefit the whole family. This is particularly important for families who are approaching breaking point because of the stress and exhaustion that sometimes comes with fighting for services to help children/YP. The ability to access

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provision such as respite, short break services, or getting help from a paid carer for some families is essential.

Several examples are highlighted in **sections 3 and 4** of this guide.

Who can appeal to the SEND Tribunal?

Parents (in relation to children from 0 to the end of compulsory schooling) and/or a YP (over compulsory school age until they reach age 25).

What information must the decision letter contain?

You should have been sent a letter from the LA when they made their decision. This letter must contain the following information on your right of appeal:

- Your right to appeal that decision
- The time limits for doing so
- Information about mediation
- The availability of—Disagreement resolution services and
- Information and Advice Support Service information, who can advise you about the process, your options and about matters relating to the special educational needs of children and young people.
- Information about the single route of redress

The Timings - The date of the LA notification letter is the date from which the time frame for making an appeal starts to run. You must send the appeal form to the SEND Tribunal

Example

Alice receives the decision letter and it is dated 10th April. She requests and receives her mediation certificate just before the 2-month deadline on the 7th June. The mediation certificate extends Alice's right of appeal by 1 month therefore her deadline for appealing is now 7th July.

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within **two months** of the date of the decision you are appealing or **one month** from the date you obtain a mediation certificate, whichever date falls latest.

Considering mediation – Before bringing an appeal to the SEND Tribunal, mediation must be considered for all appeals apart from a Section I (placement) only appeal. This does not mean that mediation is compulsory, but it must be considered. There is a telephone number on your decision letter from the LA which provides the details of the mediation service. You must contact this service to obtain a mediation certificate if you do not want to participate in mediation.

What if I have missed my deadline?

If you have missed the deadline, you can ask the SEND Tribunal to accept your appeal late and they have the power to register the appeal. If you need to do this, IAS recommends you seek advice first. There may be reasons for this e.g. family crisis/relationship breakdown/ housing issues/illness within the family/ financial issues/problems in the workplace/exclusion of your child and/or other difficulties your child is experiencing.

Example

Alice received the decision letter and intended to make an appeal. However, during the appeal window she broke her leg and her son was permanently excluded from school which meant she was incredibly stressed and could not make the appeal in time.

What is Legal Help and do I qualify?

Under the Legal help scheme, parents/YP may qualify to receive free legal help from a solicitor firm. There is a legal aid checker here: [legal help](#). It is important to check whether this is available even if you suspect you or your YP may not qualify. If you do qualify this means a solicitor's firm will do your case work free of charge.

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IAS expect parents/YP to check to see whether they are eligible for legal help and take up this help if it is available so that IAS can support those families who are not eligible.

What IAS can do to help parents and YP

- IAS can help parents/YP to explore their options and rights and can provide information to help them make informed decisions/responsibilities and own any decision.
- IAS can keep the appeal focused on the legal test and ignore historical aspects of the case.
- IAS can support parents/YP to plan regarding facts and evidence.
- IAS can check the LA decision letter is compliant and consider parent/YP circumstances if they are out of time for making the appeal. (See above).
- IAS can explain the practical considerations of mediation.
- IAS can explain the use of Legal Aid, but it is always the parent/YP's responsibility to check if they are eligible.
- If IAS are supporting you through the appeal, we can check your draft reasons for appeal (time limits permitting).

IAS will expect that:

- The parent/YP to follow any guidance.
- The parent/YP attempt to draft their reasons for appealing.
- All information is given/available on time.

What IAS cannot do?

- Give personal opinions.
- Solve problems and make decisions for the parent/YP.
- Do things that parent/YP can do for themselves or could do with encouragement/support.

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- Jointly support a parent/YP whilst a solicitor is advising on their case.
- Chase up the LA to ensure deadlines are adhered to.

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Section Three - Evidence

Evidence

Any document can be used as evidence. Key evidence will usually be found in reports from professionals. Although evidence is important to show a recommendation is needed, this is not the same as you needing to show **exactly** what provision is needed which may come because of the recommendation – this is the point of the recommendation; particularly if you are asking for an assessment from a particular service.

Common problems parents/YP encounter:

- The child/YP is on a waiting list for certain services so the evidence of what is needed is not forthcoming
- The parents/YP have been informed they do not meet the 'criteria' for services so are unable to obtain service provision
- The child/YP has been assessed as needing a particular service or equipment, but it is not available

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Consider the following examples:

Example 1

Josie has Autistic Spectrum Condition and challenging behaviour. Josie's EHC plan was finalised recently and the social care sections of the EHC plan says Josie's family are meeting her social care needs and no services or provision are identified. Josie's parents believe a social care package of personal assistance for Josie to do activities outside the home is needed. They have also asked about respite provision so they can have a break from caring responsibilities. They have been advised that Josie doesn't meet the criteria for social care input as there are no 'safeguarding risks' and Josie does not have severe learning difficulties which would justify input from social care.

The above example demonstrates the misinformation families are sometimes given in relation to being eligible for a social care assessment/provision of services - both for children **and** their carers. In this type of scenario, Josie's family could use any evidence they have which shows they have asked for social care input and the responses they have received from social care. Also, any evidence they have about Josie's difficulties can be used to show she/her parents require a social care assessment and provision of services.

For social care issues, your own evidence as a family and how your child/YP is on a day-to-day basis is important as you know your child/YP best. This can provide valuable evidential information about your child/YP which you could set out in a statement/chronology. Don't forget to note the impact this has on the wider family including siblings.

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Example 2

Adam has problems with communication. Although Adam has had an EHC needs assessment and had been referred to the local Speech and Language Therapy team, he is on a waiting list for an assessment of his speech and language needs. The LA has decided Adam doesn't require an EHC plan and his parents are appealing this decision. His parents have had a telephone consultation with a therapist from the team and have been informed the waiting list is around 32 weeks although this may change.

In the above scenario, the speech and language assessment should have been done as part of the EHC needs assessment. An assessment may indicate that Adam requires speech and language therapy as part of his special educational provision. Adam's parents can use any evidence which shows Adam has difficulties with communication and that a recommendation from the SEND Tribunal is required. In this type of scenario, a parent/YP could argue the EHC plan is needed to ensure speech and language provision is provided as the local waiting list for services indicates it is not readily available for children/YP who need it.

You may not have all the evidence you would ideally like at this stage but don't worry and more importantly, **don't hang on waiting for evidence** before sending your appeal in as it is vital you do not miss your deadline for appealing. Once the appeal is registered you will have an opportunity to send further evidence in.

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Section Four - Mediation and the SEND Tribunal appeal form

Mediation

If you wish to enter mediation, make sure you request it before your appeal time window runs out. Speak to IAS for further advice around this if you need to. If mediation goes ahead, you meet with the LA (for education/social care) and/or representative from the CCG (for health) at mediation with a mediator (the current list is on the back of the LA letter). During mediation the parent/YP meets with the relevant representative with a mediator present. Your child does not need to be present.

The case will be discussed in an informal, conversational manner and the mediator will lead the discussion. You will be able to state what it is you are requesting and why. Bring your evidence/reports along with you. The relevant representative attending must have the power to decide on behalf of the LA or CCG.

If mediation is successful there will be a mediation outcome form which all parties sign. This is legally binding and the LA/CCG must comply with the actions agreed.

If mediation is unsuccessful, you must be issued with a mediation certificate which will enable you to go on and appeal. Once you have your mediation certificate (whether you have chosen to mediate or not) the following steps are important for starting the appeal.

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SEND Tribunal appeal form

The SEND 35 form is the form you need to use and it can be obtained [here](#). This is not to be confused with the SEND 35a form which is for a refusal to carry out an EHC needs assessment appeal.

The appeal form questions

The questions you need to complete depend on the type of appeal you are making. These questions are covered in the other guides we have available which are specific to certain types of appeal. For the purpose of this guide, it is only Section 4 of the appeal form which is covered.

Section 4 of the form – Single Route of Redress

Consider the examples answers below. If any of these reflect your circumstances, then you may want to ask the SEND Tribunal to list your appeal under the single route of redress.

Question - I disagree with the health care needs and health provision (Section C and G if concerning an EHC plan) because:

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Example

"X continues to have difficulties with his fine motor skills and has significant sensory issues such as (give examples) which are impacting on his life and education. X saw an Occupational Therapist 3 years ago but he was discharged after several sessions. We have asked the Occupational Therapy department to see X again but they have advised there is a waiting list"

Question - I want the Tribunal to make a recommendation about the health care needs and health provision (Section C and G if concerning an EHC plan) follows:

Example

"Although X has yet to have a full and comprehensive Occupational Therapy assessment, we believe he will require support from an Occupational Therapist to meet his ongoing needs. We also believe school staff will require training from Occupational Therapy, so they are able to properly understand and implement a programme which they can deliver with oversight and review from Occupational Therapy"

The above examples could also relate/be adapted to other therapies such as Speech and Language, Child and Adolescent Mental Health and/or Physiotherapy.

For social care recommendations, consider the examples answers below. If any of these reflect your circumstances, then you may want to ask the SEND Tribunal to list your appeal under the single route of redress.

Question - I disagree with the social care needs and social care provision (Section D and H if concerning an EHC plan) because:

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Commented [ML1]:

Example

“Abbas is social isolated due to his difficulties in communicating and socialising. We asked for a social care assessment but were informed that we don’t meet the criteria. We can’t spend any time with our younger daughter alone and this is impacting on our whole family. Abbas has severe problems with sleeping and he can’t be left unsupervised for any length of time as he has no sense of danger

Question - I want the Tribunal to make a recommendation about the social care needs and social care provision (Section D and H if concerning an EHC plan) follows:

Example

“Although Abbas has yet to have a full and comprehensive social care assessment, we believe he will require support from a personal assistant to have any sort of meaningful experiences away from home. Abbas has no independence skills and will need support with this now he is getting older. We would like respite provision for ourselves as carers and also so our daughter can have a break from being a young carer each week”.

Once the form is complete

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Have the information the Tribunal requires in Section 12 of the appeal form and have any evidence you wish to send with the form ready. Your appeal and documentation can be sent by email to the address specified in Section 12 of the form - write in the subject line of your email 'New Appeal' to ensure it is dealt with quickly. The document limit for each email is 14MB so if your documents amount to more than this you will need to spread them over more than one email making sure you note in the subject bar 'New Appeal email 1 of 1'; then in a new email making sure it is marked as email 1 of 2' - so on and so forth.

Tip – There are page limit numbers for all types of appeals so it is important to ensure the evidence you plan to send reflects the issues. The form asks specifically 'why' the evidence you are sending is relevant to the appeal. Guidance on the page limit for each type of appeal can be found [here](#).

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Section Five - Preparing for the rest of the appeal process

What happens next

The SEND Tribunal will write to you – typically by email. **Always** check your junk mail as sometimes their emails will go to a junk folder.

The SEND Tribunal will register your appeal and send a timetable of what should happen next and when.

There is an example of what the timetable of dates looks like in the guide relevant to the

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type of appeal you are making. To avoid duplicating information, we have not included it in this guide. When an appeal is registered under the single route of redress it is typical for the Tribunal to actively 'case manage' the appeal more than they do in other appeals. Therefore, your timetable may look a little different to the examples given in the other guides. Also, the hearing date may be listed to run over 2 days depending on how complex the health and/or social care issues are. The rest of this guide will focus on issues which relate specifically to single route of redress appeals.

LA's response to the appeal

The LA's response to the appeal is the very first deadline which must be complied with. The response will vary depending on the type of appeal you are making. At this stage, the LA will also need to say whether they are going to defend the health and/or social care element of the appeal. What the LA say at this stage will give you a chance to think about any further evidence you send/further reasons you make ready for your evidence deadline later in the appeal process.

For social care issues where you have asked for a social care assessment the LA may have already started the assessment in anticipation of the SEND Tribunal wanting to know what provision, if any, is required. Any evidence which comes from assessments at this stage can be used later as evidence.

Attendance form and witnesses

The next deadline is the attendance form although this is likely to be replaced soon with a 'case review form'. It is not vital to have witnesses. However, if you do decide to bring witnesses it is important to keep liaising with them at each stage of the appeal, so the witness is fully informed and prepared if the hearing goes ahead. Extra witnesses are permitted for single route of redress appeals. If your appeal relates to social care issues, then remember your own evidence is important. You could also consider obtaining a

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witness statement from a member of your family or someone in the community who is familiar with your child/YP's needs.

Further/final evidence deadline

The next deadline is for you to send in any further evidence and/or further information/reasons to support your appeal – the LA has the same deadline if they wish to send in further evidence/reasons they are relying on to defend the appeal.

You can use this to respond to any reasons the LA has given in their response for saying the recommendations you are asking for are not required. Although you can use this opportunity to send any evidence in which you did not have at the start of the appeal – only send it in if it is relevant to what you are asking for.

If you have come to use this guide **after** you have sent in your appeal, please look at the types of evidence we recommend you get which is detailed in **Section 3** of the guide.

Tribunal bundle

This contains all the documents the parties to the appeal (you and the LA) have sent into the SEND Tribunal as part of the appeal. The LA is responsible for preparing the bundle and must send a copy to you and the SEND Tribunal by the deadline. If you do not receive it by the deadline or receive it but there is information missing it will be important to telephone the SEND Tribunal.

Sending in evidence once the final evidence deadline has passed

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It is possible to apply for late evidence to be submitted after your deadline, including bringing late evidence on the day of the hearing. It will be up to the SEND Tribunal whether this should be accepted. It is always best to tell them in advance and any late evidence must be sent to the LA as soon as you have it. Reasons must be given for why the evidence is late. There is no guarantee that the evidence will be accepted by the SEND Tribunal hearing your appeal, it is important to make sure you detail your reasons carefully. Seek advice if you are not sure.

Pre-hearing

The LA may agree to what it is you are asking for as part of your appeal after the response deadline but prior to the hearing. This **must** be done via a consent order, which is signed by both parties and sent to the tribunal by the LA and parent/YP. This is to ensure the deadlines carrying out what it is they are agreeing to do are protected. The form used for withdrawing the appeal is the SEND8 withdrawal form which can be found [here](#). The SEND Tribunal will not normally allow an appeal to be withdrawn when there are less than 5 working days before the appeal hearing.

The hearing

We have detailed some information and tips for dealing with hearings in the other guides which are relevant to specific types of appeals. Single route of redress hearings can sometimes feel a little different due to the wider issues which are being discussed and the allowance of more witnesses. However, the judge and panel will have already decided the order of the issues prior to the hearing and will lead the proceedings. They will ask questions of the witnesses attending and you will not be expected to make legal arguments about your case.

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The decision

You will receive a decision around 2 weeks following the hearing. The decision made will reflect both the written evidence and the oral evidence the SEND Tribunal panel hears on the day.

What happens if my appeal is successful?

For health recommendations relevant CCG will be sent a copy of the decision and they must respond to the parent/YP and the LA within 5 weeks in writing and confirm what steps they will now take in response to the recommendations and given reasons if they are not going to follow all or some of the recommendations.

For social care recommendations the LA will be sent a copy of the decision and they must respond to the parent/YP within 5 weeks in writing and confirm what steps they will take in response to the recommendations and given reasons if they are not going to follow all or some of the recommendations.

What happens if the LA/CCG does not follow the recommendations of the SEND Tribunal in relation to health and/or social care?

It is expected CCGs and LAs will follow the SEND Tribunal's recommendations as they are a specialist tribunal. If the recommendations are not followed, then the parent/YP can make a complaint to the Local Government and Social Care Ombudsman or Parliamentary Health Service Ombudsman if required. There is also the possibility of taking legal action against the LA and/or CCG. However, this is a specialist area of law and specialist legal advice would need to be sought.

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What if my appeal is dismissed?

If the appeal is dismissed, then you may wish to come back to the service for advice and information.

Contact details for (IASS) Manchester

Parent Confidential Helpline: **0161 209 8356** (Monday to Friday 8.30 am-4pm)

Answer phone available when lines are closed: 0161 209 8356

Email: parents@manchester.gov.uk

Website: www.iasmanchester.org

Address:

Information, Advice and Support Service (IASS) Manchester
Hulme District Office
323 Stretford Road
Hulme
M15 4UW

If you are looking for advocacy support for the SEND Tribunal there is a short guide to this [here](#).

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Section Six - Appendices

The SEND Tribunal has allowed some of the decisions made under the single route of redress to be published online. We have included 2 of the decisions here so you can see the types of issues the SEND Tribunal has looked at when making recommendations about health and/or social care. All decisions can be accessed [here](#).

Decision 1 – Contents of an EHC plan including health and social care.

'Lucy' is 3 years old and has a diagnosis of Cerebrocostomandibular Syndrome (CCMS). As a result, she breathes through a tracheostomy which she has had since the age of 3 months and uses a ventilator on BIPAP settings when she sleeps. Lucy needs constant observation from someone fully trained in her care. Nutrition and water through a PEG gastrostomy several times during the day and overnight. Lucy is unable to vocalise because of tracheostomy and has a moderate bilateral hearing loss. No identified learning delay and is typically developing with play.

Lucy is physically able and enjoys running, climbing, bouncing and riding wheely toys. However, she cannot be left with someone not trained in tracheostomy care as this would put life in danger.

The Health Care Support Worker (HCSW) Lucy requires to attend nursery, or any form of education, is funded by the CCG (health). Due to Lucy's complex medical needs, she can only attend nursery if she has a 1:1 support from a HCSW who is fully trained in tracheostomy and gastrostomy care. Without this cover Lucy cannot attend nursery and misses out on education. Lucy has already missed a substantial number of days due to the lack of a HCSW being available. Lucy currently attends a mainstream nursery, for 15

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hours a week. She is entitled to 30 hours of nursery provision but unfortunately the nursery does not have capacity to increase the number of hours offered.

The main issues relating to the appeal are the level of cover for the 1:1 HCSW at the nursery during breaks and periods of absence, the training/ qualifications of support/ replacement for the HCSW and the availability of appropriately trained support staff; clarity on who will cover the 1:1 support in the education plan. With regard to social care provision: parent sought a review and clarity of the social care provision; consideration of the hourly rate of direct payments and whether this is sufficient to enable the appropriately trained cover to be purchased for respite care.

The parents sought a recommendation that the LA funds the full agency rate to enable 4 hours of respite per week.

By the time of the hearing the parents and LA had agreed respite provision and this wording was implemented in the EHC plan.

The issues at the hearing:

- Whether the CCG should commission that the agency supplying the HCSW has at least two or three fully trained HCSWs to cover nursery hours.
- In the event that there is no HCSW available to attend the nursery, who should provide back-up cover?
- Against which guidelines the competencies of the HCSW should be assessed?

The Tribunal made the following recommendations:

- The HCSW is a health provision necessary to attend the nursery as tracheostomy requires constant supervision.
- The CCG should commission that the agency contacted has three (3) fully trained HCSW to cover nursery hours.

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- In the event that the HCSWs are not able to carry out the shifts, the CCG will commission that the contracted agency provide a nurse trained in tracheostomy to cover as 1:1
- In the event that the contracted agency cannot provide a nurse, the CCG will commission the contracted agency to source a nurse trained in tracheostomy from other agency providers.

Decision 2 – Refusal to issue an EHC plan including health and social care recommendations

Stan is 10 years old and is a pupil in Year 6 at a mainstream maintained primary school. He has a diagnosis of Autistic Spectrum Disorder (ASD) and receives support in school at SEN Support level. The LA carried out an EHC needs assessment but refused to issue an EHC plan.

As part of the appeal, the parents requested a recommendation for an assessment from a mental health professional and a sensory programme. They also asked for a determination whether Stan would be considered to be a 'Child in Need' for the purpose of social care support and in particular, whether respite provision and PA support which has been withdrawn from Stan should be reinstated.

The issues at the hearing:

- Stan had been awaiting assessment by mental health professionals for well over a year. There was evidence of his tendency to self-harm at home, coupled with levels of anxiety.
- The LA claimed that their policy on social care meant that Stan no longer met the criteria for support.

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The Tribunal made the following recommendations:

- In preparation for the drafting of the EHC plan, a CAMHS assessment is arranged within the next 6 weeks.
- In respect of social care, the SEND Tribunal concluded that Stan is a Child in Need under s17 of the Children Act 1989. They recommended that the LA review the conclusion of their Child in Need assessment, having considered their legal duty under legislation as opposed to any policy consideration and reconsider whether Stan should be defined as a disabled child.
- An occupational therapy assessment of Stan is carried out.
- Reinstatement of the previous PA and respite support provided by social care prior to its withdrawal in summer 2018.

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