

EDUCATION HEALTH AND CARE ASSESSMENTS AND PLANS WHAT CAN I DO IF I DISAGREE WITH A DECISION?

1. Introduction

In Bury we are committed to working with parents, carers and young people to try to resolve any disagreements as quickly and as informally as possible. This information sheet sets out how we will do this in Bury and how you can get further advice and support if we cannot reach a satisfactory agreement.

The Children and Families Act (2014) and the Special Educational Needs and Disability Code of Practice (July 2014) have introduced a new system that supports children and young people with special educational needs or disabilities (SEND). As a parent or carer or a young person (who is over statutory school age) there may be times when you do not agree with decisions that are made by organisations supporting you or your child and you may wish to challenge them. This information sheet sets out all the different ways that you can do this and where you can get further help and support.

2. What decisions can I disagree with within the Education, Health and Care Assessment and Plan Process?

- If the Local Authority (LA) decide not to carry out an Education, Health and Care (EHC) Assessment.
- If the LA carries out an EHC assessment but decides not to issue an EHC Plan.
- If you disagree with the contents of the EHC Plan.
- If the LA decides not to amend an EHC Plan after an annual review or a reassessment.
- To cease an EHC Plan.

3. What can I do if I want to resolve my disagreement?

In the first place we would like you to discuss your concerns with your SEN Caseworker or Senior Practitioner within the **SEN Team**. They will be able to explain the basis of any decisions and to will try to resolve your concerns as quickly as possible. They will also be able to signpost you to other organisations who can provide you with advice and support.

You may also wish to involve the **Bury SEND Information Advice and Support Service (IASS)**. This Service is independent of the Local Authority and can provide advice and support to parents of children and young people with special educational needs and disabilities. This includes the provision of an Independent Supporter. IASS officers will also attend any meetings with you, if you feel this would be appropriate. More information about the Service is available on their website at www.togethertrust.org.uk/iass-bury-send. They can also be contacted by telephone on 0161 761 0401 and in writing at The Re:d Centre, Morley Street, Bury BL9 95Q.

You do not have to engage with any local processes, but we would encourage you to do so as most issues can usually be resolved more quickly and without the need to go through more formal systems. However if your disagreements are not resolved through a local process then you can seek disagreement

resolution and/or mediation, and appeal to the Special Educational Needs and Disability Tribunal (SENDIST).

4. Disagreement Resolution

Disagreement resolution services are for all parents of children and young people with SEND. The Service is free of charge and is voluntary for all parties and can consider disagreements about SEN provision as well as about disagreements about health and social care. There are three areas of disagreement that this service can help with:

- If you disagree with your LA, early years setting, school 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 during the EHC assessment process or if they have an EHC Plan.
- If you disagree with your early years setting, school or college about the SEN provision they are making. This applies if your child has any kind of SEN, not just during the EHC assessment process or if they have an EHC Plan.
- If you disagree with the LA or the 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.

You may use the disagreement resolution services at any time and it has no effect on your right of appeal to the SEND Tribunal. The Service is free to parents, carers and young people and is delivered in Bury by Global Mediation Services. For more information please contact the SEN Team, Bury, SEND, IASS or go to <http://www.globalmediation.co.uk/our-services/education/special-education-needs> or contact their SEN Case Manager on 0800 064 4488.

5. Mediation

Mediation is a voluntary process for parents and young people which you can use when it has not been possible to reach an agreement with the Local Authority over the EHC assessment process or the provision of, or content of, an EHC Plan. It covers the following areas of disagreement where the LA decides:

- not to carry out an EHC needs assessment or re-assessment of your child;
- not to draw up an EHC plan for your child, once an assessment has been carried out;
- not to amend the EHC plan after the annual review or a reassessment;
- to cease to maintain the EHC plan.

When Bury LA has drawn up an EHC Plan, mediation is available if you disagree with:

- the parts of the plan which describe your child's special educational needs (section B of the EHC plan);
- the special educational provision set out in the plan (section F of the EHC plan).

Mediation and disagreement resolution meetings aim to resolve your disagreements in a quick, informal way using a neutral third party, a mediator, to help you reach a resolution that is mutually satisfactory.

For more information go to <http://www.globalmediation.co.uk/our-services/education/special-education-needs> or contact the SEN Case Manager on 0800 064 4488.

If you decide that you wish to appeal to the Special Educational Needs and Disability Tribunal then you **must** contact the mediation advisor who is commissioned by the LA.

6. Appealing to the Special Educational Needs and Disability Tribunal

If it has not been possible to reach an agreement with the LA over the assessment process or the provision of, or content of, an EHC Plan, you have the right to appeal to the Special Educational Needs and Disability Tribunal (SEND). SEND is an independent first-tier tribunal (Health, Education and Social Care Chamber) who hear and decide parents' or young people's appeals against the decisions of the Local Authority in relation to EHC assessments and EHC Plans.

You can appeal about any of the issues in relation to an EHC assessment or plan listed in paragraph 2.

If you are going to appeal to the SEND Tribunal then you must do this within two months of the original decision that you are appealing about, or within one month of receiving a mediation certificate from the Mediation Advisor, whichever is the later date.

You will find more information about the SEND Tribunal in the SEND Code of Practice sections 11.39-11.55 and at www.justice.gov.uk/tribunal/send, or by contacting the SEND Tribunal Service at the HM Courts & Tribunals Service Special Educational Needs & Disability Tribunal, 1st Floor, Darlington Magistrates' Court, Parkgate, Darlington DL1 1RU, Tel: 01325 289350.

Mediation Advice

In order to register an Appeal, you must first contact an independent Mediation Adviser and obtain a certificate to prove that you have done so. The Mediation Adviser will provide you with factual information about mediation. You do not have to have mediation advice if your Appeal is only about Placement (Section I), the health and social care elements of an EHC Plan or if it is a disability discrimination claim.

In Bury, the LA have commissioned Global Mediation to provide our mediation service. If you want to seek mediation or you intend to appeal to SENDIST, then you must contact the SEN Team Manager (Carol Grunbaum) on 0161 253 5642 or by e-mail at senteam@bury.gov.uk. You will then be free to contact the Mediation Adviser directly on 0800 064 4488 or the SEN Team Manager will do this on your behalf. This service is free of charge and your conversation is confidential.

Once you have received mediation advice it is up to you to decide whether you want to go to mediation before any Appeal you might make to the SEND Tribunal.

If you do not want to try mediation, the Mediation Adviser will issue you with a certificate within 3 working days so that you can register your Appeal.

If you do want to try mediation, the SEN Case Manager will make all the arrangements for you. A mediation meeting will be set up with the Local Authority within 30 days of the Mediation Adviser advising the LA that the parent or young person wants to go to mediation.

Once a mediation is complete, the Advisor will issue a certificate within 3 working days. Where mediation does not lead to complete agreement between the LA and yourselves, then you can still appeal to the SEND Tribunal, but you must send the certificate to the Tribunal when you appeal.

Your right to Appeal is not affected if you do not have mediation first and no inference will be drawn by the Tribunal if you have not used the mediation services.

7. Mediation on matters which cannot be appealed to the SEND Tribunal

If the LA has issued an EHC Plan, then parents and young people can go to mediation about the health and social care elements of the Plan or if there is no health or social care provision specified in the Plan.

Health Provision

If you wish to go to mediation about the fact that no health care provision or no health care provision of a particular kind is specified in the Plan, then you must contact the SEN Team Manager (Carol Grunbaum) on 0161 253 5642 or by e-mail at senteam@bury.gov.uk and tell her the health care provision which you want to be specified in the plan. If you want to go to mediation about the health care provision in the Plan, then the LA will inform the commissioning body within 3 days of the matter being raised. If the issue raised is only about the health care provision, then the Health Commissioning Board will arrange for the mediation to take place within 30 days of being informed by the LA.

Health, Social Care and/or Educational Provision

If you disagree with either the education and social care elements of the Plan, or the health and one or both of the education and social care elements of the Plan, then the LA will arrange the mediation. If you wish to pursue mediation, then you must contact the SEN Team Manager (Carol Grunbaum) on 0161 253 5642 or by e-mail at senteam@bury.gov.uk. You will then be free to contact the Mediation Adviser directly on 0800 064 4488 or the SEN Team Manager will do this on your behalf. This service is free of charge and your conversation is confidential.

Mediation should provide a relatively quick way of resolving disagreements about the health and social care elements of an EHC Plan. However it may not resolve all disagreements and these elements are not under the jurisdiction of the SEND Tribunal. If mediation has not resolved all the issues, then you can request disagreement resolution, although this may not be agreed if mediation has not

resolved the issues. If there continue to be issues that are not resolved then you may need to consider making a complaint through the complaints process which is detailed below.

8. Complaints

Social Care (Children)

If you are not satisfied with the outcome of the mediation process in relation to the Social Care provision in the EHC Plan then you can make a complaint through the LA's Children's Social Care complaints process. You can do this by contacting the Complaints Manager at Children's Social Care Complaints, Children's Services, 3 Knowsley Place, Duke Street, Bury on 0161 253 5488 or by using the online form which you will find at www.bury.gov.uk. An advocacy service is available to support children in making a complaint.

Social Care (Adults)

If you are not satisfied with the outcome of the mediation process in relation to the Social Care provision in the EHC Plan then you can make a complaint through the LA's Adult Care complaints process. You can do this by contacting the Customer Services Manager, Textile Hall, Manchester Road, Bury, BL9 0DG, 0161 253 5151 or by using the online form which you will find at www.bury.gov.uk. An advocacy service is available to support adults to make a complaint.

Local Government Ombudsman

If your complaints have not been resolved through mediation, disagreement resolution or the complaints process, then you can ask the Local Government Ombudsman (LGO) to investigate your complaint. The LGO will investigate the process by which the LA's decision was made and whether there was maladministration, rather than examining the merits of a decision which has properly been taken. The LGO will decide if there has been an injustice to the complainant and/or there is evidence of maladministration.

The LGO does not investigate the merits of a decision which has properly been taken but which the complainant thinks is wrong. It will, however, look at the decision making process and the delivery of provision set out in the EHC Plan.

The LGO will not investigate matters which can be appealed to the SEND Tribunal. It can, however, investigate complaints that the special educational provision set out in an EHC Plan is not being delivered. Complaints can be made to the Local Government Ombudsman via its website at www.lgo.org.uk or in writing to PO Box 4771, Coventry, CV4 0EH. Help in making a complaint is available by ringing 0300 061 0614.

NHS Complaints

If you are not satisfied with the outcome of the mediation process in relation to the Health Care provision within the EHC Plan, then you should contact the Patient Services Team at St James' House, Pendleton Way, Salford, M6 5FW, 0161 212 6270, patientservices.gmcusu@nhs.net. If you need help and support to make a complaint then you can contact the Independent Complaints Advocacy

service at 5th Floor, Arthur House, Chorlton Street, Manchester M1 3FH, 0808 801 0390, manchesterica@carersfederation.co.uk.

The Parliamentary and Health Service Ombudsman

The role of the Parliamentary and Health Service Ombudsman (PHSO) is to investigate complaints that individuals have been treated unfairly or have received a poor service from the NHS in England. They can investigate complaints about the commissioning and provision of healthcare. The PHSO can carry out joint investigations with the LGO where a complaint includes concerns about the delivery of the health care provision in EHC plans. They will normally investigate a complaint only once the NHS organisation has had a chance to resolve the issue first. More information on the role of the PHSO is available on their website at www.ombudsman.org.uk.

9. Where can I get more help and advice?

Local Organisations	Phone No	Address	E-mail
Bury SEND Information Advice and Support Service (IASS).	0161 761 0401	The Re:d Centre, Morley Street, Bury BL9 95Q	www.togethertrust.org.uk/ia-ss-bury-send .
Bury Parents Forum	0161 762 1444	Phoenix House, 100 Brierley Street, Bury BL9 9HN	www.buryparentsforum.org.uk
SEN Team	0161 253 5642	Seedfield Site, Parkinson Street, Bury BL9 6NY	senteam@bury.gov.uk
Children's Disabilities Services	0161 253 6076	The Re:d Centre, Morley Street, Bury BL9 95Q	On line contact form on www.bury.gov.uk

Local Organisations	Phone No	Address	E-mail
Adult Care Services	0161 253 5151	Connect and Direct, Textile Hall, Manchester Road, Bury Lancashire BL9 0DG	On line contact form on www.bury.gov.uk
Bury Clinical Commissioning	0161 212 6270	21 Silver Street, Bury, BL9 0EN	patientservices.gmcusu@nhs .

Group			net
Global Mediation Services	0800 064 4488		www.globalmediation.co.uk/our-services/education/special-education-needs

National Organisations	Phone No	Address	E-mail
Contact a Family	0808 808 3555		www.cafamily.org.uk
IPSEA	0800 018 4016		www.ipsea.org.uk
SEND Tribunal	01325 289350	HM Courts & Tribunals Service, Special Educational Needs & Disability Tribunal, 1 st Floor, Darlington Magistrates' Court, Parkgate, Darlington DL1 1RU	www.justice.gov.uk/tribunal/send

Publications	
SEND Code of Practice 0-25	SEND code of practice: 0 to 25 years - Publications - GOV.UK
Special Educational Needs and Disability: A guide for parents and carers	SEND: guide for parents and carers - Publications - GOV.UK
SEN and disability support changes: information for young people	SEN and disability support changes: information for young people - Publications - GOV.UK
SEND Tribunal and Appeals	Special Educational Needs and Disability guidance for Special Educational Needs and Disability Tribunal