

Challenging an Education Health and Care Plan (EHCP) Decision

You can challenge:

- A decision not to carry out a needs assessment
- A decision not to issue an EHC plan
- The special educational support in the EHC plan
- The school named in the EHC plan
- A decision not to maintain an EHC plan
- A decision not to amend or replace an EHC plan following reassessment, or review

Concerns about the EHCP service, failures to follow the process properly, or deliver agreed outcomes, should be dealt with through our complaints procedure. The SEND team will try and find a solution throughout the challenge process (below), even if an appeal is in progress.

1. Talk to your SEND Caseworker

Your SEND Caseworker will know how and why a decision has been made and can explain the statutory assessment process. If this initial discussion does not resolve your concerns they can arrange a **'Way Forward'** meeting with the Team Manager or Assistant Team Manager (and other professionals as appropriate), ideally within three weeks. This meeting will: a) give you an opportunity to discuss your concerns in person; b) go over why a decision was made; c) consider any points of disagreement and; d) clarify the support available within the educational setting or proposed within the EHCP. The focus of the meeting will be to try and find an agreeable way forward and the outcome should be confirmed in writing.

2. Mediation

Mediation is a confidential, informal, simple and accessible disagreement resolution process. A trained mediator works with families and the professionals involved to clarify the issues of disagreement and work together to reach an acceptable solution. The mediator is independent and so does not take sides, give advice or make judgements. Mediation is voluntary and is not legally binding. It is also often quicker and costs less than going to a tribunal. If you wish to engage in mediation then this should be arranged by the local authority within 28 days. The mediation provider in Surrey is [Global Mediation](#). Information on mediation will be provided at the appropriate stages of the EHCP process.

3. Appeal

If you are still not happy with decisions taken in relation to an EHC needs assessment or plan, then you have the right to appeal to a Special Educational Needs and Disability Tribunal (also known as a First-Tier Tribunal). For most types of appeal, parents or young people should first have contacted an independent mediation advisor and discussed whether mediation might be a suitable way to resolve the disagreement. You will need a certificate from the advisor to register the appeal if mediation has been unsuccessful or you did not want to take part. You then have one month from the date of the certificate, or two months from the date of the decision (whichever is later) to register the appeal. You can withdraw your appeal at any time. Information on how to submit an appeal will be provided at appropriate stages of the EHCP process.

4. Tribunal

The SEND Tribunal listens to appeals and has legal authority to decide if a decision should be changed. More information on the tribunal can be found [here](#). You do not have to attend the hearing if you do not wish to. Although there are no fees involved with a tribunal, there may be costs associated with preparing your appeal. Having made an appeal you will normally find out when your tribunal date is within 10 days, although the appeals process can take up to five months from start to finish depending on the case. Results of the appeal will normally be available within two weeks of the hearing.