



Partnership with Parents
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INFORMATION SHEET: 13

HOW DO I LODGE AN APPEAL WITH THE SPECIAL EDUCATIONAL NEEDS & DISABILITY TRIBUNAL (SEND) ABOUT A DECISION MADE BY THE LOCAL AUTHORITY?

You can only lodge an Appeal with SEND if the Local Authority (LA) has informed you of your right to do so. This will usually be contained in a letter telling you of a decision/decisions made about your son or daughter's Statement of special educational needs (SEN). If you do not agree with the decision you can Appeal. **There is a two month time limit for appealing to SEND which starts from the date on the LA's letter giving their final written decision.** If there are exceptional circumstances why you cannot meet the deadline you should contact SEND as a matter of urgency. **Even after making an Appeal to SEND, you should continue to try to resolve the matter with the LA.**

The first step you need to take is to contact SEND on **01325 392760** to let them know that you wish to appeal. They will send you a copy of their booklet, in the middle of which, you will find the form you need to complete in order to register the Appeal. You will have to send relevant documents with the form and these are listed in the SEND booklet. There is also a website at www.sendist.gov.uk.

- It is important to note that you must get the form and supporting papers to SEND by no later than two months from the date of the LA's letter (e.g. LA letter dated 5th March, papers must be with SEND by 5th May).
- If you miss the date you will only be given an extension in exceptional circumstances and it is only the President of the Tribunal who decides if your reasons are exceptional enough.
- Simply missing the date, being on holiday, or not realising the importance of the letter from the LA are usually not considered to be exceptional reasons.

A DVD is available on request - this shows a 'mock Tribunal' and includes a question and answer session.

Once you have sent in your form, SEND will register your Appeal within 10 working days of receiving it. They will tell you that they have registered your Appeal and inform you of the date your Appeal will be heard.

Depending on the type of Appeal, they will also send you either some automatic directions setting out a time table to provide information and documents (if they decide that the case is straightforward) OR a Further Information form (with explanatory notes) for you to complete and return to them. They will also send a copy of your appeal to the LA.

Response from the LA - The LA has to respond within 30 working days of SEND sending them a copy of your Appeal notice. They will send a copy of their response and any accompanying documents to you and SEND. You need to let SEND know (in writing or by e-mail) if you do not receive the response within 8 weeks of them registering your Appeal.

Case Management Process - Each appeal will be 'case managed' following registration. This process is to ensure that you, the LA and the Tribunal have all the information necessary for SEND to reach a decision on the day of the Hearing.

If your application is quite straightforward SEND will send automatic directions to you and to the LA. For some appeals it may be necessary to hold a face-to-face meeting or telephone conference before the hearing. In such a case, when your Appeal is registered you will be sent a 'Further Information' form, explaining what type of case management your appeal will require.

Informing you of the place for your Hearing - At least 10 working days before the Hearing, SEND will inform you of the venue and the time of the Hearing.

The Hearing - The Hearing will take as long as necessary to enable the Tribunal to hear all the evidence relating to the appeal. For example, an appeal against a refusal to assess may take no more than half a day, but an appeal about the contents of Parts 2, 3 and 4 of a statement may take a full day, depending on the complexity of the case.

Decision - You should receive the Tribunal's decision in writing within 10 working days of the Hearing.

Note: You and the LA can ask SEND to increase any of the time limits mentioned in the above process, including the two month time limit in which to appeal. To do this you have to write to SEND giving reasons on a Request form. They will send you this form when they register your appeal. It is also available on their website www.sendist.gov.uk. A Tribunal judge will decide whether an extension is given or not.

Is there a Code of Practice? Yes, the government has made an SEN Code of Practice which both the LA and SEND "must have regard to". This Code of Practice was issued in 2001 and is available from the Department for Education (formerly the Department for Children, Schools & Families (DCSF)), DCSF Publications Centre, PO Box 5050, Sherwood Park, Annesley, Nottingham, NG15 0DG Tel: 0845 60 222 60. The reference code is DfES/581/2001. It is also available from the teachernet website at www.teachernet.gov.uk/docbank/index.cfm?id=372.

Although the Tribunal is intended to be as parent-friendly as possible, you may well be feeling anxious about going ahead with, what is after all, a legal challenge to the LA's decision. Partnership with Parents and a number of other organisations, which are listed at the end of this sheet, can provide (free of charge) different types of information, advice and support including representation, through the process. You may be entitled to get Legal Aid (or public) Funding. A solicitor will be able to advise you on whether you are entitled to this. The Law Society or your Local Citizens Advice Bureau will be able to give you the names of solicitors who participate in the Legal Aid scheme and are experienced in these matters.

You may also wish to gather additional evidence about your child's needs for the Tribunal hearing - these could include up to date medical, therapy or educational assessments. Please note that there are strict deadlines for submitting evidence and late written evidence is usually not accepted although, with the Tribunal Chair's permission, you may be able to talk about reports at the Hearing, but the LA can object to this.

If I appeal, can I still talk to the LA?

You can and should keep talking to the LA right up to the day of the Tribunal Hearing. Your child's needs may well change during the time it will take or you may find that the arrangements put in place through the Statement are working well. It is important to keep the LA informed of this and of any new evidence you may have obtained. Your Appeal can be withdrawn right up to and including the day of the hearing and there is no penalty for withdrawal.

If you decide to withdraw your Appeal, please remember that you have to do so in writing to SEND who will then advise the LA. Only you, the pupil's parents, have the right to make and withdraw the Appeal.

What is mediation?

When your Appeal has been registered, you may receive details of mediation services. Mediation is a process which usually involves a meeting with the LA facilitated by an independent third party who is a trained mediator. It is intended to see if there is scope for agreement on any, or all of the matters you wish the Tribunal to make a decision about.

Mediation is always entered into voluntarily. In other words, you can choose to ask for mediation or decide not to take part, and this does not remove your right to carry on with the Appeal to SEND.

Useful Contacts:

<p>ACE - Advisory Centre for Education 1c Aberdeen Studios 22 Highbury Grove London, N5 2DQ Tel : 0808 800 5793 (10-5pm) Produce a useful "Tribunal Toolkit" ISBN : 870672 30 5 - Cost £12.95 Website: www.ace-ed.org.uk Email: enquiries:ace-ed.org.uk</p>	<p>IPSEA (Tribunal Support Service) 6 Carlow Mews Woodbridge Suffolk, IP12 1EA Tel : 0845 602 9579 Mon/Wed/Thur (10-1pm) Have means tested representation service for Tribunals Website: www.ipsea.org.uk</p>
<p>National Autistic Society Tribunal Support Service 393 City Road London, EC1V 1NG Tel : 0845 070 4004 (10-4pm) Website: www.autism.org.uk Email: nas@nas.org.uk</p>	<p>Children's Legal Centre The Children's Legal Centre University of Essex, Wivenhoe Park, Colchester, Essex, CO4 3SQ Advice Line: 0845 345 4345 (9-5pm) Website: www.childrenslegalcentre.com Email: clc@essex.ac.uk</p>
<p>SEND Special Educational Needs & Disability, Mowden Hall, Staindrop Road, Darlington EG3 9BG SEN Helpline : 01325 392760 Email: sendistqueries@tribunals.gsi.gov.uk Website: www.sendist.gov.uk</p>	<p>Global Mediation Ltd. Constable House, 5 Bulwer Road, Barnet EN5 5JD Tel : 0800 064 4488 Website: www.globalmediation.co.uk Email: sen@globalmediation.co.uk</p>
<p>Local Government Ombudsman P.O. Box 4771 Coventry, CV4 0EH 0300 061 0614 or 0845 602 1983 Website: www.lgo.org.uk Email: advice@lgo.org.uk</p>	

