

## Appeal Process - How to complete a SEND 35

### Page 1 - Front page

This gives you useful information regarding the Tribunal process and how to complete the form. Do read it carefully. The whole form **MUST** be completed in **BLOCK CAPITALS** unless it tells you otherwise or if you are completing the form electronically. Some boxes will automatically type in Capitals. Remember to save it first if you do it online!

### Page 2

#### **Section 1: Who the appeal is about?**

Please complete child/young person's details (who the appeal is for).

#### **Section 2: What are you appealing about?**

You need to tick the relevant boxes you are appealing against - tick all that apply.

### Page 3

- If you are appealing against Section I of the EHCP provide the full name and full address of the school/college/ institution that you are asking the Tribunal to name instead. If you want to add a second School or type of School you can also do that.
- Then confirm you have contacted the school/college/institution about a place at the school/college/institution, the date you contacted them and any response. It is best to contact the school in writing (via email).
- If you are appealing for an independent placement you can only appeal if you have confirmed with that school/college/institution in writing that they can meet needs and have a place available.
- If **you cannot name a school** at this stage, you need to state briefly a type of school/college/institution you would prefer, i.e. a school that can meet the child's specific speech and language needs; a school that can meet the child's social emotional and mental health needs or a school with small class sizes etc. You can refer to the EHCP and any reports to support your preference.

If you are asking Tribunal to make any recommendations for health or social care then please tick the appropriate boxes.

### Page 4

#### **Section 3: Reasons for appeal**

### **Box 1: I am bringing the appeal because**

All parents/young people should complete this box.

#### **Example:**

- Refusal to Issue:

This is an appeal against Surrey LA's decision to refuse to issue an EHCP for [child's name]

- Content or Placement Appeals (Section B, F and /or I)

This is an appeal against sections B, F and/or I of an EHCP issued by Surrey LA in respect of [child's name].

### **Box 2: I disagree with the description of special educational needs (Section B of the EHCP) because:**

If you are wishing to request any changes to section B of the EHCP this is where you would list them. This may have to be a separate sheet. You could also state that a list of changes will follow.

### **Box 3: I disagree with the specification of special educational provision (Section F of the EHCP) because:**

If you are wishing to request any changes to section F of the EHCP this is where you would list them.

You may need to make a general comment about why F is not a true reflection of your child. It maybe because Section F is not specific and quantified (not detailed). There maybe words such as 'would benefit from', 'access to', 'regular', 'may like to consider'.

If you are unable to say what the details of support needed are as independent reports are needed then say so. You can also ask for reassessment at this point.

### **Box 4: The LA have not considered**

If you believe the LA should have considered other facts about your child's case when they made their decision, i.e. if you feel the LA didn't take into account a specific report or sections of a report, your child has been out of school or medical needs etc.

### **Box 5: I disagree with the LA's choice of school/college/institution (Section I of the EHCP) because:**

If you think the named school cannot meet needs or is the wrong type of school for your child, then this is your opportunity to say the reasons why you believe the

school cannot meet the child's needs/young person's needs. You might wish to look and highlight anything in the EHCP you might feel the named school cannot provide.

Some examples could be:

- School is too big
- Unsuitable environment, why?
- Lack of specialist staff
- Lack of suitable peer group (too many girls than boys)
- Lack of specialist facilities
- Your child won't cope there, why?
- Is the school capable of delivering everything in Section F?
- Is it the right type of school (ASD, LAN, SEMH etc.)?
- The school is too distant from your home, state the miles and how long it would take
- What subjects and examinations are offered?

**Box 6: I prefer my choice of school/college/institution (Section I of the EHCP) because:**

This is an opportunity to say the reasons why you would like your preferred school to be named on the plan. You might wish to highlight anything in the EHCP that supports your preference.

You could include:

- If you haven't yet identified a school say so and say that for the moment you are asking the tribunal to name a type of school e.g. mainstream. You will have to amend the grounds of appeal as soon as you have a School to name
- Explain why and how your school of choice can meet your child's needs
- How the school can deliver everything in Section F
- Suitable environment
- Specialist staff (SALT, OT, EP etc. on site?)
- Suitable peer group
- It is the right type of school (ASD, LAN, SEMH etc.)
- What subjects and examinations are offered?

If you are wanting to include a second school or a type of School as a second choice, then name that school in this box and include the full address.

**EOTAS**

If you want education other than at school (EOTAS) Section I should be left blank but all of the provision should be specified and quantified in Section F. Section I should be blank because you are in effect saying that no school is appropriate.

See our information sheet on EOTAS.

## **Page 5**

**Note:** The ‘reasons for appeal’ boxes on the form are quite small, and it’s likely you will need to use an additional sheet of paper. Make this clear on the form and ensure you have your child’s name, date of birth are on the additional pages and number them.

### **Section 4: Reasons for asking for a recommendation for Health and/or Social Care**

**Box 1: I disagree with the health care needs and health provision (Section C and G if concerning an EHC plan) because:**

Write the reasons you are not happy with what Section C and G says about your child/young person.

**Box 2: 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:**

Write any recommendations you would like to see about the health care needs (Section C) and the health provision (section G).

**Box 3: I disagree with the social care needs and social care provision (Section D and H if concerning an EHC plan) because:**

Write the reasons you are not happy with what Section D and H says about your child/young person.

Under Section D on the EHCP it may state ‘No’ there will be no social care reports. If you feel it is important that there is a social care report maybe because there is active social care involvement or you feel that there should be, you have the right to ask that there is a Care Assessment carried out under Section 17 of the Children Act 1989. If you have requested the LA carries out an assessment then state this and say you will expect the outcome to be included in the EHCP.

**Box 4: 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) as follows:**

Write any recommendations you would like to see about the social care needs (Section D) and the social care provision (section G).

## **Page 6**

### **Section 5: Making the appeal**

Write *Surrey County Council* as they are the LA that made the decision and then the date on the letter you received.

It is important to keep to the Tribunal deadlines but should the appeal be late the Tribunal will always consider late appeals if there is a good reason, so if it is a late appeal then explain the reasons why it is late on this page and remember to tick the correct box.

## **Page 7**

### **Section 6: Who is making the appeal?**

This is where you state who is making the appeal and would put their details. All boxes need to be completed if possible. The email address does not need to be in capitals if the address includes lower case letters.

## **Page 8**

### **Section 7: Who else is involved in the appeal?**

**First box:** If any other person or organisation shares parental responsibility for the child or has been appointed as a Deputy by the Court of Protection for a Young Person, then give the name and contact details of each person or organisation and confirm that you have notified them of the appeal.

**Second box:** write here if you believe they should not receive details of the appeal and explain why.

**Third box:** If any other court or tribunal has made an order concerning the child or young person, including the family court, you must provide the details.

### **Your advocate**

If you are a Young Person making the appeal, do you have an advocate to support you to express your views? If you do, then provide their details.

You don't need to have an advocate but it is an option should you feel you need someone to talk on your behalf. SEND Advice Surrey maybe able to do this if no one else can using IASSN advocacy definition which is the empowering model. The Advocate needs to know you are adding their details.

## **Page 9**

### **Your representative**

Provide details of Representative.

You don't need to have a representative.

You may pay for legal representation from a solicitor/law firm. They will prepare and present your case at the hearing.

**Legal Aid:** Some parents are eligible for Legal Aid. Legal Aid will help with certain elements of the preparation for appeal. It will not provide a lawyer for the hearing (except in very exceptional circumstances).

You can check if you are eligible for Legal Aid by visiting the following government website:

<https://www.gov.uk/check-legal-aid>

You can contact IPSEA for possible representation. There is also SEN SOS who will charge a nominal fee.

SEND Advice Surrey will only provide representation at the hearing if parent/young parent is not able to do so themselves.

### **Who should receive information about the appeal?**

All paper and documents will go to the one person named on the form unless you tick one of these boxes in this section.

## **Page 10**

### **Section 8: The hearing – your needs and requirements**

Provide any details of any special needs or anything the court should be aware of including if you need a signer or need an interpreter so that they can consider this when looking at venues.

### **Section 9: Paper hearing**

A paper hearing means that the Tribunal Judge and other Tribunal Members will only consider the written evidence in private and you and your representative (if you have one) do not attend a hearing.

You will be first given a two-week window when the paper hearing is taking place then a single date nearer the time that is during the two weeks. You will be sent the decision in writing about 10 days after the paper hearing.

If you want more details about the reasons for the Tribunal's decision, you can ask for this by writing to the Tribunals or Appeals Service within one month.

- If the Tribunal agrees, do you agree that the appeal can be determined on the written evidence without an oral hearing? Tick yes or no.

Do you consent to the final hearing of the appeal being listed on an earlier date if one becomes available? Tick yes or no.

## **Existing claims/appeals:**

If you have another current appeal or claim in relation to this child or a sibling provide details.

## **Page 11**

### **Section 10: Checklist**

**You MUST include everything in this list where relevant. Missing paperwork will mean that the appeal is delayed.**

- A signed and dated letter from the Local Authority giving you the right of appeal to HM Courts & Tribunals Service (the Local Authority decision letter) *This is the letter that should have come from the LA stating their decision and giving you details of how to appeal should you wish to do so.*
- A copy of the signed mediation certificate
- Your reasons for making the appeal – *Section 2 page 3 is your reasons for making the appeal and should be completed.*
- The appeal form has been signed and dated

**This list is the minimum you MUST send with your appeal form. You can of course send any other evidence you have. Please remember to send copies only and no original documents. The Tribunal prefer it to be single sided if this is possible.**

### **Section 11: Please sign below**

Please sign and date the form. Each parent that is named on the form should sign the form.

If you have legal representation, they must sign the form also.

### **Section 12: Sending us your appeal**

When you have completed the appeal form and signed it, send the form along with all the supporting evidence to either the email address or postal address given in this section.

**If you are sending it through the post we advise to send it recorded delivery.**

**If you are emailing everything in write in the subject box “New Appeal”.**

## **Page 12**

Please list all the documents you are sending with the appeal form, the date of each document and number of pages, its author (if known), and, if it is not obvious, why the document is relevant.

**Page 13**

Information about how to access information regarding SEND Tribunal privacy policy.

**Please note all communication from now on MUST go to the LA and Tribunal. Most changes would be on the Request for Change Form.**