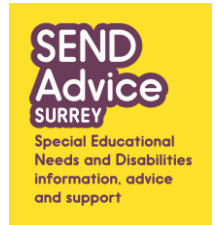


## Appeal Process – examples of evidence



As you will see in the Registration Letter you would have received when your hearing was registered (the letter with the date of your hearing), you (or the LA) also need to provide the following.

Please note this is not an exclusive list and some of the documents should be sent by the Tribunal Officer on behalf of the LA. If they do not send them it would be worth requesting them to be sent or sending them yourself as the lack of these types of evidence may lead to the appeal being adjourned and a decision delayed:

- All written information, including professional and expert reports, upon which you intend to rely

### **Contents Appeal (Sections B and F):**

You would send all these if they were not sent with your SEND 35:

- **Full copies of all the EHCP appendices which are all the reports and assessments listed in section K.**

You would also send any other reports or assessments that are not listed in Section K that you feel are necessary.

- **The LA must send to you with their response (called a R1 form) an electronic (emailed) copy of your EHCP.**

The copy of the EHCP would form the Working Document and be sent in by the deadline outlined in the Key Dates on the Registration Letter. The Working Document will show any agreed amendments and proposed further amendments as well as all the issues remaining in dispute. This final version is sent so it is received at least 10 working days before the hearing.

### **Section I / Placement Appeals:**

The form states that you and the LA must state how much a placement at your proposed school or schools is likely to cost. **The LA normally do this.** You should include, where relevant, extra costs such as Transport, Additional Therapies, Additional Learning Support or Specialist Teaching, Age weighted pupil unit costs, the cost of any respite care and any other costs relevant to the placement.

- If you are asking for **an independent school**, you must provide written confirmation signed by a representative of the school that a place is available and the date from which the place is available from.
- You must provide a copy of the most recent Ofsted report and prospectus or brochure for the school you wish to name in Section I. LA will do the same for their school.

- When you completed your SEND 35 you should have stated that you had contacted the school you wish to name to tell them and given the date you contacted along with any response. If you did not do this, you **must** do so and send the details to Tribunal and the LA within 10 working days of the date of the Registration Letter.

**Refusal to Issue an EHCP appeal**

- The LA should provide, with its response (R1 form), the following information:
  - a copy of the child’s attendance record at school for the last complete year
  - details of the provision, progress and outcomes at SEN support and
  - a short chronology of events (one side of A4).

**Remember** if you would like to have the hearing heard on Papers and you didn’t tick the box on the SEND 35 you should send your consent to the appeal being concluded without a hearing by sending your written consent for the appeal to be dealt with on the papers and include the LAs response to this happening. (You would complete a SEND 7).

**Cease to Maintain appeal:**

- You must state whether you want the Tribunal to consider any amendments to sections B, F or I of the EHCP.

If you do, you must use a SEND 7 to ask Tribunal to consider these changes therefore changing the grounds of appeal to include B, F and or I. See our Information on ‘How to complete a SEND 7’. Amendments would be discussed if the EHCP were to be maintained.

**Again, please note that this is not a complete list of evidence needed in an appeal. You must read the Registration Letter in full.**

**Type of Appeal: Refusal to assess**

Type of Evidence	The evidence will provide:
Position Statement	See our guidance on this. Would show the background, what outcomes you want, express your feelings and wants and may include a timeline. As Refusal to Assess is on papers then this would include everything you want the Judge to know about the situation and your child, their needs and the provision you believe they need to meet those needs
Diagnosis letter/ Paediatrician Reports	Evidence of Special Educational Needs (SEN) or any recent changes to the child’s medical condition or diagnosis
Provision Map / IEP / ISP	Shows support the school has been putting in place prior to the Education, Health and Care Needs Assessment

	(EHCNA) request being made
Exclusion letter or Behaviour Support Plan if applicable	Showing behaviour displayed could be the result of unmet needs
School progress report	Shows progress made or not made with or without support (some positives or areas of development maybe evidence of lack of progress)
Team around the child/family (TAC / TAF)	Background information
Reports from professionals: Education psychologists (EP), Occupational Therapist (OT), Speech and Language Therapist (SALT), Inclusion Team, Post 14 Team	Do these identify specific recommendations?

### **Type of Appeal: Refusal to issue an EHCP**

<b>Type of Evidence</b>	<b>The evidence will provide:</b>
All of the above	
Private EP report	Details of needs and provision required that were not identified in EHCNA
Private OT report	As above
SALT report	As above
Witness statement from school or any other professional involved in child's life	How the school cannot provide what is included within the EHCNA outline without funding Timetable of support needed/ hours of support needed Also, outlining any needs/provision required not identified in the EHCNA
Voice of Child	To capture the voice of the child (see our guidance on this)

### **Type of Appeal: EHCP contents appeal – special vs mainstream appeal**

<b>Type of Evidence</b>	<b>The evidence will provide:</b>
All of the above	
Special school prospectus and Ofsted report	Outlining the facilities and provision in place which would meet the need of the child Maybe able to highlight difference between one school and another
Report or witness statement from mainstream school	If applicable – outlining how a mainstream setting cannot meet need

Transport cost	If applicable – outlining difference in cost
Fees if independent special school	If applicable – outlining difference in cost
If independent school – a letter showing that there is a place available	Tribunal service will request this if not submitted – the form would be called Provision of Placement (POP)
Annual Review recommendations (if applicable)	What is the outcome of the Annual Review? Have the school been reviewing the EHCP adequately? Exhausted all options? Sought appropriate support of outside agencies?

**Type of Appeal: EHCP contents appeal (sections B and F)**

<b>Type of Evidence</b>	<b>The evidence will provide:</b>
All of the above	
Social care assessment or Child in Need report	Applicable if National Trial / Extended Trial
Any medical reports or letters issued after the EHCNA	Up to date information
Any professional reports issued since the EHCP was issued or last amended	Up to date information
Witness statements or reports from setting or professionals	Do these identify specific recommendations? The children and young people's needs - have these all been included?