

Appeals Process - Guidance following email received from Tribunal following a new appeal (SEND 35)

Once you have lodged your appeal, i.e. sent off your SEND 35, you will get an email from Tribunal with the subject:

“HD (date) – (then your appeal number) - new registration SURNAME”.

This means that Tribunal have registered your appeal.

From now on any further documents you send to Tribunal MUST be sent to the LA too using the format below:

- 1. Current hearing date in the format of dd.mm.yy**
- 2. Subject matter** (e.g. LA response or Request for Change)
- 3. Case number and child’s/young persons name**

Explanation of the documents attached:

- Any attachments starting in ATT e.g. ATT0002, are logos or pictures.
- **New registration parent letter:**

Read this letter in full as it’s very important.

This is a letter about the appeal and as it states the LA will now be aware that you are appealing. It may be that your Case Officer will direct you to the Tribunal Team from now on (as they are in different teams). Please note that it could take up to 20 days before Surrey are actually aware.

This letter also includes the date of your hearing – on the second page and an Attendance Form, at the back.

This letter states that the final hearing date is subject to confirmation by the Tribunal about 10 days before the hearing. If Tribunal change the date you will hear three weeks before the hearing. **You won’t get the location and time of the hearing until a few weeks before the date of the hearing (we have known it to be a week before).** If it is to be a virtual hearing you will get the joining details at this time too.

This letter also talks about paper appeals. This may be where neither party attends the hearing in person. If you would prefer a paper hearing where the Tribunal panels make a decision on the evidence submitted without turning up, both parties must consent to this. An agreement for the appeal to be concluded on the papers without an oral hearing can be

sent using the Request for Changes form (RFC form) and will be treated as an exceptional request and may lead to your appeal being concluded on an earlier date.

Page 2 onwards are your case directions. Your appeal number will be at the top along with the child's full name.

Points 1 to 10 outline in detail what to do at different stages, detail of what is needed and detail of what you will need to provide as the parent. These are linked to the Key Dates table which is at the end of this section and looks like the one below.

These KEY DATES are REALLY important.

Key Dates:

Timetable for appeal:

Please note: The purple bits are not included and are our guidance. You need to ensure you read points 1 to 10 at the same time as the table in your guidance:

(Dates and times are examples only)

Action and party required to respond	Date and time for compliance
The LA must send: ~ its response (this must include child/young person views on the issue of the appeal), ~ attendance form and ~ an electronic copy of the EHC plan (in an editable format, this starts the Working Document process. You will only get Sections B, F and I. If it's a Section I only appeal you will not get a Working Document but should still get a response) to the Parents and the Tribunal so that it is received by:	12 noon on 24/04/2020
The Parent(s) and LA must send to each other and to the Tribunal any further written information, including professional reports, upon which they intend to rely as soon as it is available and at the latest, it must be received by:	12 noon on 27/05/2020
The <u>Parent(s)</u> are to send their completed Attendance Form to the Tribunal and the LA by: This is the date and time that you as parents need to send your Attendance Form (which is included in this guidance). As you can see above the LA have already sent theirs.	12 noon on 20/05/2020
No further evidence without express permission of the Tribunal from either party will be accepted after:	12 noon on 27/05/2020
The LA must produce and send to the Tribunal either four copies of the bundle in hard copy or one copy electronically and at the same time send one copy to the Parent(s) so that it is	12 noon on 01/06/2020

received by:	
The date of the final hearing:	24/06/2020

Dates not included in the above are:

Action and party required to respond	Date and time for compliance
Final Working document	At least 10 days prior to the hearing
Please ensure you read sections A, B, C, D and E depending on the type of appeal you are doing. There are bits of evidence you need to provide depending on the type of appeal you are doing.	
You may receive an active case management call from a Tribunal Registrar, enquiring about the progress on the appeal. (About four weeks before the hearing).	Week commencing 27/5/2020
This letter states that the final hearing date is subject to confirmation by the Tribunal about 10 days before the hearing. If Tribunal change the date you will hear three weeks before the hearing.	Either 10 days before the hearing or 3 weeks if there is a change.
The tribunal will not consent to any withdrawals or conceded appeals within 5 working days of the final hearing date. An application for concession or withdrawal made within five working days of the final hearing will be REFUSED and the parties will be directed to attend a hearing before a Tribunal Judge to explain the reasons for the late settlement of the appeal. The hearing may be on the same date as was fixed for the final hearing or within 5 days of it and the parties will be notified of the date when they contact the Tribunal.	Within 5 working days of the hearing

A, B, C, D and E outlines what you need to provide depending on the type of appeal you are doing:

A	Where the appeal is against a refusal to secure an EHC assessment or a refusal to issue an EHC plan
B	Where an appeal is against a decision to cease to maintain the EHC plan
C	Where the appeal is against what the EHC plan says about the child's special educational needs or special educational provision the child should receive
D	Where the appeal concerns an approved independent school

E	Where the appeal concerns a child who is the subject of residence or care proceedings in the Family Court
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Request for changes (SEND 7 form)

If you or the LA objects to any of the directions or wishes to vary any of the directions, you must first of all **contact the LA to see if agreement can be reached. The LA will do the same.**

If agreement can be reached a consent application (sometimes called a consent order) setting out the proposed new direction should be sent to the Tribunal signed by both you and the LA. If agreement is not reached, the party seeking to vary the directions must use the Request for Changes Form (SEND 7) and send a copy to the other party and to the Tribunal.

The other party must send their objections to the party making the request and to the Tribunal. The request and objections will be considered by a Tribunal Registrar or a Tribunal Judge who will issue a direction. Any party may apply for a review of a Registrar's direction within 14 days of its being made. The Request for Changes Form can be requested from the Tribunal or is downloadable at <http://www.tinyurl.com/sendforms>

Failure to comply

This guidance explains that the Tribunal has power under Rule 8 to strike out all or part of the party's case or to bar a party from further participation in the proceedings if they do not comply with the Tribunal's directions.

The second to last page is **Explanatory Notes** and explain about **Witnesses** and **Representatives/Helpers**. It also explains that a **child (who the appeal is about)** can attend but you should have someone to look after the child as it isn't always appropriate for them to attend the whole hearing.

The last page explains the **working document** and **who does this** and **what happens next**.

It also gives the key to use when you are working on the working document (EHCP):

Normal type	Original EHC plan
Underlined type/strikethrough	Amendments/deletions agreed by both parties
Bold type	Parents proposed amendments
Bold strikethrough	Parents proposed deletions
<i>Italic type</i>	LA's proposed amendments
<i>Italic strikethrough</i>	LA's proposed deletions

Surrey will also ask that you do the following:

- **Where you request changes using information from a report, you must reference the report using footnotes (at the bottom of the page where the requested wording**

occurs), e.g. “Smith, EP, 28/02/2019, p.1, para. 5” These will be removed if agreed and from the final amended plan.

- Please do not use embedded comments or track changes.
- Please only use black type and Arial 12 pt for changes within the Working Document (WD)
- Each time either the local authority or the parent revise the WD it should be renamed with the next number e.g. Version 1 (v.1) becomes v.2 etc. Please change the watermark accordingly if you can.

Please note that the LA will remove ALL footnotes prior to sending the working document off.

The Working Document should arrive at least 10 working days before the hearing – an electronic and a hard copy. The LA will send this to you as the parent and Tribunal. See our Info Sheet on The Working Document and Tribunal Bundle.

Bundle Guidance

This is guidance for producing a Tribunal Bundle for the First-Tier SEND (called a SEND 40).

This outlines what the LA will be doing to produce the bundle for the Tribunal and what must be included.

It shows how the bundle will be divided into sections – Part A to Part D.

It also outlines the maximum pages allowed in each Appeal type in addition to the core Tribunal Bundle (Part A) and the EHCP plus appendices (Part B).

It also includes guidance on How to send the bundle, Supplementary Evidence, Late evidence, Working documents, Adjourned hearings, Non-Compliance with the Tribunal’s directions. Manually produced Tribunal Bundles and Application for permission to appeal following a Tribunal decision.

How you can help us

This explains how to help the Tribunal. It outlines when to make **Telephone Calls**, about **Correspondence**, **Postponements** and **Late evidence**.

It also outlines the Dos and Don’ts:

Do:

Please quote the **full case number** on **all correspondence** to the Tribunal as this will help us link it to the file quickly.

If you have access to email, this is our **preferred method of receiving** correspondence; you should include the hearing date first along with the case number and the child's/young persons name in the subject title box. (Please refer to the tribunals guidance titled electronic documentation).

Only send one copy of your correspondence (there is no need to send an original in the post if you have sent it by fax or email). We will destroy any duplicate copies sent into the Tribunal.

When possible please send us single-sided documents.

Let us know promptly either by phone, email or post if your case is withdrawn or settled. This will avoid any unnecessary action on your case and may enable us to reallocate your hearing day to another case.

Don't:

Please do not telephone our office to confirm receipt of emails and faxes. You will receive an automated response to confirm receipt of emails and your fax machine can produce a transmission report.

How to help us e filing

This explains now to 'Help us help you by filing your electronic documents correctly'.

Basically it states that you need to ensure that all e forms are completed correctly so that emails are automatically filtered using the subject title and include the following:

- 1. Current hearing date in the format of dd.mm.yy (if known)**
- 2. Subject matter** (see below for the work types incorporated under the subject matter)
- 3. Case number and child's/young person's name**

Two examples:

HD 04.11.15 LA Response EH123.15.00012 A Child

HD 02.11.15 Request EH123.15.00012 Y Person

And you email send@justice.gov.uk (remembering to send to the LA too – send.appeals@surreycc.gov.uk)

(This is correct as of Jan 2022).

If you have any questions for Tribunal Bundles please call the Tribunal Helpline on 01325 289350 or email send@justice.gov.uk You will also find additional information on their site including a DVD to watch.