



## 4. WHAT YOU CAN DO IF YOU DISAGREE

YOU DISAGREE WITH THE LOCAL  
AUTHORITY DECISION NOT TO  
ASSESS YOUR CHILD FOR AN EHCP  
OR TO ISSUE A PLAN, OR WITH THE  
FINAL EDUCATION, HEALTH AND  
CARE PLAN

Remember that at any point, if you  
can't agree on any aspect of the plan,  
you can ask to take part in  
disagreement resolution. This is in  
ADDITION to any mediation or appeal.  
\*If your appeal is only about  
placement you do not have to seek  
mediation first

For decisions where there  
is no right of appeal  
to the First Tier Tribunal, decisions  
can be challenged via Judicial Review.  
Families will need legal advice in  
relation to Judicial Review and legal  
aid may be available to pay for this  
in some circumstances.

If you are not satisfied with either a local authority's decision not to assess  
your child for an EHCP, OR not to provide an EHCP after a statutory  
assessment, you can appeal to the SEND Tribunal.  
Appealing to the First Tier Tribunal can be done in the name of the parent  
or the child/ young person.  
Additionally, if you are unhappy with any of the needs or provision or  
placement offered in your child's final EHCP, you can also appeal.

There is a trial underway currently (2018/19) to include health and social  
care as a single route of appeal. Please check the status of this at the time  
of your appeal. A large percentage of appeals are settled at 'case  
management' stage, via telephone hearings.  
If you lose your FTT appeal, you can take legal advice in consideration of a  
further appeal to the Upper Tribunal, usually on a point of law.



Before appealing about

1. Refusal to assess,
2. Refusal to issue an EHCP, OR
3. The SEN part of an EHC plan

you must first contact a mediation advisor.  
The LA must inform you about how to do  
this\*. The mediator will give you evidence  
that you have done so. You will be  
encouraged to participate in mediation,  
however, this is not compulsory if you feel  
that mediation will not work. If at all  
possible, keep the lines of communication  
open - you can still reach an agreement  
that works for your family at any time up  
to the date of Tribunal.

To appeal, you have two  
months after the local  
authority's decision.  
You can register an  
appeal when you have a  
certificate from the  
mediator. If you choose to  
go to mediation & it fails,  
you will have a minimum of a  
month after that to register  
an appeal.

Full details can  
be found in  
Chapter 11 of the  
SEND Code of  
Practice

If you do decide to head for the SEND Tribunal, there are free sources of legal advice to  
help such as:

IPSEA [www.IPSEA.ORG.UK](http://www.IPSEA.ORG.UK)

SOSSEN: [www.SOSSEN.ORG.UK](http://www.SOSSEN.ORG.UK)

Contact A Family SEN line [www.Contact.org.uk](http://www.Contact.org.uk)

IASS for young people: [cyp.iassnetwork.org.uk](http://cyp.iassnetwork.org.uk)

IASS: [https://councilfordisabledchildren.org.uk/information-advice-and-support-  
services-network](https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network)