

# Application for appeal

Refusal to secure an EHC Needs Assessment

## **Child or Young Person**

You should use this form to appeal against a decision made your Local Authority (LA) not to secure an EHC needs assessment of a child or a Young Person. A child is aged 0 – 16 years. A Young Person is anyone aged 16 years or over who is over statutory school age but under the age of 25 years.

All appeals against an LA's refusal to secure an EHC needs assessment will be decided by the Tribunal following consideration of the written evidence without an oral hearing. Unless you tell us otherwise, your consent will be presumed. If you wish to have an oral hearing of the appeal you must tell us and this will then be arranged.

## **Who can bring an appeal?**

### **Appeal concerning a Child**

An appeal concerning a child can be brought by a parent or parents, someone with parental responsibility or someone who cares for a child. That person can appoint a representative to act on their behalf during the appeal process including at the hearing if they wish to do so. They can also have an additional person, a parental supporter, to attend an appeal hearing to give them further support.

### **Appeal by a Young Person**

It should always be presumed that a Young Person has the mental capacity to make an appeal to the Tribunal. An appeal made by a Young Person will often be with the support of an advocate. An advocate can be a parent, family member or other individual including someone who is paid to do so. A Young Person can also appoint a representative to act on their behalf during the appeal process, including at the hearing.

### **If a Young Person cannot bring an appeal themselves – making an appeal as an Alternative Person?**

If a Young Person does not have the mental capacity to bring an appeal and/or to make decisions about the appeal, then it can be brought by an Alternative Person acting in the best interest of the young person. This will be any Deputy appointed by the Court of Protection or if no appointment has been made, then usually a young person's parents. It could also be a family member or someone from the LA's social care team. The Tribunal will still want to know what the Young Person's views are on the issues in the appeal but it is the views of the Alternative Person which they will consider in reaching their decision in the appeal. An Alternative Person can also appoint a representative during the appeal, including attending at the hearing if they wish to do so.

### **Who can be an advocate?**

An advocate is someone who knows you, who understands what you think about the issues in the appeal and so can speak on your behalf. For a young person, they can be a parent, family member, friend or a paid advocate. If a parent is disabled, they may also be able to have an advocate. They are not someone who can give advice on the issues in the appeal.

### **Who can be a representative?**

A representative is someone who will give you advice on the issues in the appeal, prepare the paperwork on your behalf and may represent you at the Tribunal hearing. They can also be an advocate. They could be a volunteer from a charity, a paid representative, a solicitor or barrister. Most appeals are made to the Tribunal without a representative. The Tribunal will support both parties through the process of making an appeal, to ensure that it is decided fairly and justly.

## About this form

This form helps you provide all the information the Tribunal requires to register an appeal. It will also ensure that your appeal contains all the necessary details required by law.

## How to fill in this form

Please use BLOCK CAPITALS unless the forms tell you not to or complete the form using a computer to send it to the Tribunal.

## Contact Details

The Tribunal's preferred method of communication is by email, phone or text, so it is crucial that you let the Tribunal know of any change of email or phone number.

## Section 1: Who is the appeal about?

A **child** under 16 years old

A **young person** aged 16 or over and under 25 years old

The child or young person's surname

The child or young person's first name(s)

Gender

Male     Female     Other

Date of birth

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## Section 2: Reasons for appeal

It is important to tell the Tribunal why you disagree with the LA decision not to secure an EHC assessment and refer to any written evidence you have to support your case.

### Legal Test the Tribunal will apply

The legal test for deciding whether to secure an EHC needs assessment is contained in the Children and Families Act 2014 s. 36(8).

The Tribunal will decide two questions in the appeal:

#### Question one: Whether the child or young person has or may have SEN?

Describe any special educational needs that the child or young person has:

Describe any special educational needs which you consider the child or young person may have which have not yet been fully identified:

#### Question two: Whether the child or young person may require an EHC plan?

Explain why you think the child or young person may require an EHC plan:

*(please continue on a separate page if necessary)*

## Section 3: Making the appeal

### LA decision

Which local authority made the decision that you are appealing against?

What is the date on the decision letter from the local authority?

### Late appeal or no mediation certificate

You must send your appeal to the Tribunal no later than 2 months from the date of the Local Authority's decision letter or within one month of the date of the mediation certificate, if later.

If the appeal is submitted to the Tribunal more than 2 months after the date of the Local Authority's letter or one month after the date of the mediation certificate, you must set out in writing the reasons for the delay and why you think the appeal would succeed if time for making the appeal is extended. If you do not do so, the papers will be returned to you without being registered or seen by a Tribunal Judge.

If you do not have mediation certificate you must set out in writing why you have not been able to get one. If you do not give an explanation, the papers will be returned to you without being registered or seen by a Tribunal Judge.

- My appeal is being made late
- I do not have a mediation certificate

Please explain why this has happened:

## Section 4: Deciding your appeal

The Tribunal will try to fast track the appeal to ensure a quicker decision. All appeals against a refusal to secure an EHC needs assessment decision will automatically be decided following consideration of the written evidence by the Tribunal without an oral hearing. Unless you notify otherwise, your consent will be presumed. If you wish to have an oral hearing, you will need to notify the Tribunal.

- I do not agree to a paper hearing and wish to attend an oral hearing.  
Please explain the reasons below for a Judge to consider.

### Existing claims/appeals

Is there another current appeal in relation to this child/young person or a sibling, that is being dealt with by the Tribunal?

- Yes, and my appeal number is

- No

Do you have an existing Disability Discrimination Claim for this child or Young Person registered with the Tribunal?

- Yes, and the date of my claim is

and my claim number is

- No

If possible, would you like these appeals/claims to be heard at the same time?

- Yes

- No

## Section 5: Who is making the appeal?

I am making this application to appeal.

Please tick only one of these options – see page 1 for explanations:

- Parent or other – on behalf of a child under 16 years old
- Young Person – aged 16 and under 25 years old
- Alternative Person – making an appeal in the ‘best interests’ of a young person who does not have the Mental Capacity to bring an appeal themselves

### A. Details of first person making the appeal

- Mr     Mrs     Miss     Ms
- Other \_\_\_\_\_

Surname

First name(s)

If you are not the Young Person, what is your relationship to the child or Young Person e.g. parent, foster parent

Email address

Home address

Postcode

Daytime phone number

Mobile phone number

### B. Details of second person making the appeal

- Mr     Mrs     Miss     Ms
- Other \_\_\_\_\_

Surname

First name(s)

If you are not the Young Person, what is your relationship to the child or Young Person e.g. parent, foster parent

Email address

Home address

Postcode

Daytime phone number

Mobile phone number

## Section 6: Who else is involved in the appeal?

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, please give the name and contact details of each person or organisation and confirm that you have notified them of the appeal:

If you believe they should not receive details of the appeal, please explain why:

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. Who are they?

Mr     Mrs     Miss     Ms

Other \_\_\_\_\_

Surname

First name(s)

Relationship to you e.g. parent, guardian, family member, friend, paid advocate.

Home address

Postcode

Daytime phone number

Mobile phone number

Email address

## Your representative

Have you appointed a representative to support you in making the appeal?  Yes  No

Please provide their contact details

Mr  Mrs  Miss  Ms

Other \_\_\_\_\_

Surname

First name(s)

Relationship to you e.g. parent, guardian, family member, friend, paid advocate.

Contact address

Postcode

Daytime phone number

Mobile phone number

Email address

### Who should receive information about the appeal?

We can only send papers and documents to one of the people named on this form. If you do not say otherwise, we will send them to your representative.

Papers and documents should be sent to:

Advocate  Representative



## Section 7: The hearing – your needs and requirements

Please tell us here about any special needs you may have which we need to take into account when arranging your hearing. This might be things such as hearing loops or disabled access.

### Question 1 – Your needs

Do you have any special needs?  Yes  No

If Yes, please tell us about this in the box below

### Question 2 – Your signer or interpreter and language requirements

Do you require an interpreter or signer to assist you at the hearing?  Yes  No

If Yes, please tell us the language and dialect required below

Language or type of sign language interpreter

Dialect

We will arrange for a professional interpreter to be present at the hearing.

## Section 8: Checklist

I confirm that the following documentation is enclosed with this appeal form:

- A signed and dated letter from the Local Authority giving you the right of appeal to HM Courts & Tribunals Service (**Local Authority decision letter**)
- A copy of the **signed mediation certificate**
- Your reasons for making the appeal
- The appeal form has been **signed and dated**

## Section 9: Please sign below

1<sup>st</sup> Parent or Young Person's signature

*If you are sending your appeal via email please type your name in the signature box.*

2<sup>nd</sup> Parent signature

**Representative signature**  
(a qualified lawyer can sign on your behalf with your permission)

Who are you representing?

- 1<sup>st</sup> Parent
- 2<sup>nd</sup> Parent
- Young Person

Date / /

## Section 10: Sending us your appeal

When you have completed the appeal form and signed it, please send it and all other relevant documents to

Email: **send@hmcts.gsi.gov.uk** - write in the subject line of your email '**New Appeal**' to ensure it is dealt with quickly

HM Courts & Tribunals Service  
Special Educational Needs and Disability Tribunal  
1st Floor, Darlington Magistrates Court  
Parkgate  
Darlington DL1 1RU

Fax: 0870 739 4017

If you need to contact us by telephone our number is: 01325 289350

## Section 11: Evidence to be considered in the appeal

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

The type of evidence that will assist the Tribunal in making their decision includes:

- Any document which helps the Tribunal to understand a child or young person’s special educational needs (e.g. a relevant medical report, an assessment by a therapist or psychologist)
- Documents provided by a school or college setting out any support the child or young person receives (e.g. SEN Support Plan, Behavioural Support Plan, notes from any meetings with professionals)
- Correspondence with the school or college about any issues (e.g. part-time timetable, exclusions)
- Other educational documents recording the level that the child or young person is working at or progress they have been making, for example latest school report,
- Other documents (for example a statement from another parent, another organisation)

<b>Date of document</b>	<b>No. of pages</b>	<b>Name of person who signed or wrote it and the type of document</b>	<b>What is the relevance of this document?</b>
<i>21.11.16</i>	<i>25 pages</i>	<i>Dr M. Smith, Educational Psychologist</i>	<i>Assessment of needs</i>

The Ministry of Justice and HM Courts and Tribunals Service processes personal information about you in the context of tribunal proceedings.

For details of the standards we follow when processing your data, please visit the following address <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

To receive a paper copy of this privacy notice, please call 0300 123 1024 Textphone 18001 0300 123 1024. If calling from Scotland, please call 0300 790 6234 Textphone 18001 0300 790 6234.