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**The Tribunals Process**

**Factsheet Number 15 August 2025**

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**Disclaimer**: This is a guide and should not be treated as legal advice. Although SENDIASS Manchester makes all reasonable efforts to ensure that the information contained in this factsheet is accurate and up to date at the time of publication, we cannot accept responsibility for outcomes suffered because of reliance placed upon it.

All hyperlinks contained within this factsheet were correct as of August 2025.

Manchester SENDIASS has also produced a series of guides on challenging Education, Health and Care Plan decisions. These are available on the SENDIASS Manchester website [Tribunals (iasmanchester.org)](https://www.iasmanchester.org/tribunals).

## **What is the SEND Tribunal?**

The First-tier Tribunal (Special Educational Needs and Disability) (the “SEND Tribunal”) is an independent national tribunal, which hears parents’ and young people’s appeals against Local Authorities’ (LA) decisions about the special educational needs of children and young people. It also hears claims of disability discrimination against schools.

You can appeal to the SEND Tribunal if you are unhappy with a decision made in relation to an EHC needs assessment or an EHC plan. There are no fees for parents or young people to pay. The SEND Tribunal has the power to:

* Order LAs to carry out EHC needs assessments.
* Issue EHC plans.
* Amend existing EHC plans.

Local Authorities must comply with orders made by the SEND Tribunal.

The SEND Tribunal is governed by the law (Children and Families Act 2014/ Disability Regulations) and must follow the interpretation of that law by higher courts in judgments about previous SEN disputes. The SEND Tribunal must have regard to the SEN and Disability Code of Practice (the “Code”) which advises schools and LAs on identifying and making provision for children with SEN. The SEND Tribunal is not bound to follow the Code to the letter, but it accepts the Code’s guidance in coming to its decisions.

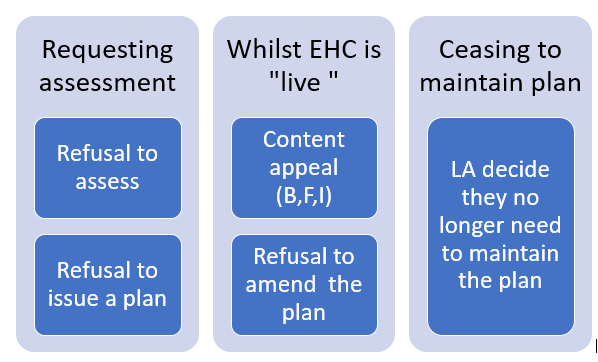
The SEND Tribunal looks at the evidence put before it and decides whether the LA decision followed the law and the Code. It will decide based on what is right for the child or young person at the date of the hearing.

**Some statistics released at the 2024 SEND conference**

## **Some Background on Special Education Needs and Disability (SEND)**

* 1944 Education Law
* 1978 Warnock report into children with SEND leading to …….
* 1981 Education Act – Local Education Authorities (LEAs) must assess SEND pupils and provide for their needs.
* 1993 The Education Act was introduced. New legal requirements that obliged schools to provide for children with SEND and name a SEN Coordinator (SENCO). The SENCO would offer support and advice to staff and ensure all children with SEN and/or statements of Special Educational Needs were supported.
* 2014 The new ‘SEND Code of Practice’ was put in place following the introduction of landmark law Children and Families Act 2014. This was the biggest shake up to the SEND system in over 30 years. Instead of a child having a statement of SEND, (after assessment) the child would receive an Education, Health Care Plan (EHC plan), which covers people from birth up to 25 years of age, parents would be given the option to have a greater say in how money is spent on their child’s SEND support. Young people would have the right to be consulted about their support.

## **At what points can an EHC plan be challenged?**



## **Diagram of what can be challenged at Tribunal**

## **What if you are worried about how the Local Authority are doing things? (Non-tribunal issues)**

The Local Government Ombudsman can investigate a complaint that a council has failed to deal properly with a child’s special educational and disability needs (SEND). This includes delay in assessing a child and issuing an Education Health and Care Plan and failing to implement an Education Health and Care Plan or carry out an annual review. The Ombudsman is concerned with process, not with the merits of council decisions taken properly.

[Home - Local Government and Social Care Ombudsman](https://www.lgo.org.uk/)

## **The Tribunals process**

The SEND Tribunal is part of the system of courts and tribunals which makes decisions in appeals and claims relating to children and young people’s Special Educational Needs and Disability (SEND).

The appeals process follows the following path:

* Mediation is considered (necessary in **all** appeals, one exception to this is when only appealing part I)
* Mediation certificate issued (where appropriate)
* Parent / Young person makes tribunal application.
* The appeal is registered.
* Tribunal advise LA that appeal has been lodged and request response.
* The Local Authority must respond to the appeal to advise if they oppose or concede.
* Further evidence must be submitted.
* The Hearing takes place
* Judge’s decision issued in writing (Usually within 10 days))

## **Time limits**

* From the date on the Local Authority letter to tell you can appeal you have two months in which to lodge your Tribunal. If you enter mediation and are issued with a mediation certificate, this will provide you with 30 days appeal window , starting from the date the certificate was issued.
* Late appeals are sometimes allowed but you must write to the Tribunals service to request this. You must also put forward good reasons as to why you missed the deadline.
* If you are considering mediation, keep an eye on the deadline for appeal and if the Local Authority cannot arrange a decision maker to attend the meeting in time lodge your appeal anyway stating that the Local Authority could not arrange anyone to attend in time.
* If in doubt phone SENDIASS Manchester on 0161 209 8356

## **Mediation**

* Children and Families Act 2014 state that mediation must be considered before most types of cases can be brought to the Special Educational Needs and Disability (SEND) Tribunal.
* Mediation is not required if you are only challenging the school place (Part I of the plan) – however always discuss this with SENDIASS first as it is very likely that section B & F of the plan may need to be challenged as well as these sections can have a direct impact on whether it is considered that a school may be suitable.
* Mediation is carried out by an organisation that is independent of the Local Authority and there is no cost to the parent/young person.
* You will be told of your right to appeal and mediation in writing by the Local Authority (Page two and three of the letter). This will happen when they consider whether to assess or issue an EHCP or whenever they review the plan. Always keep these letters as you will need to send a copy with your appeal.

## **Tribunal Application**

You can find Tribunal forms here: [Gov.uk tribunal forms](https://www.gov.uk/government/collections/special-educational-needs-and-disability-tribunal-forms)

### Make sure you use the right form:

* Form SEND35 is to be used for challenging the contents of a plan (Sections B, F and/or I), and challenging refusal to issue, cease to maintain, refusal to re-assess decisions. [Special Educational Needs and Disability Tribunal appeal: Form SEND35 - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/form-send35-special-educational-needs-and-disability-tribunal-appeal)
* Form SEND35a is for refusal to assess only. [Special Educational Needs and Disability Tribunal - Appeal a refusal to secure an EHC Needs Assessment: Form SEND35A - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/form-send35a-special-educational-needs-and-disability-tribunal-appeal-a-refusal-to-secure-an-ehc-needs-assessment)

## **The Hearing**

For the latest advice on hearings follow this link [Appeal an education, health and care (EHC) plan decision: What happens at the hearing - GOV.UK (www.gov.uk)](https://www.gov.uk/appeal-ehc-plan-decision/what-happens-at-the-hearing)

Most hearings take place virtually and you will be given instructions on how to join the virtual hearing a few days beforehand.

### **How long will the hearing take?**

* Half a day for appeals on school placement or cease to maintain.
* Full day if you are challenging multiple contents of the plan.

### **Who will be there?**

* You and any helper you wish to bring.
* A Judge and one or two experts
* The Local Authority representative
* Any witnesses you or the Local Authority choose to use.
* Hearings usually start at 10 am

## **At the Hearing**

* The Judge will chair the hearing and ask questions.
* The Judge will want to hear your reasons for challenge and will ask the Local Authority about the reasons they made their decisions.
* If you or the Local Authority have invited witnesses, they will be called.
* Although this is a formal legal process the panel will be aware that you may feel nervous and will try to run things so that you can get your point across
* A member of SENDIASS can be there as your helper and will be able to help you put your point across, but we cannot formally represent you.

**The decision**

* The Judge will write to you within 10 days to give the decision.
* If the Judge finds in your favour the Local Authority must comply with the

Judge’s decision within 14 days, which you cannot appeal unless unlawful.

**SENDIASS Manchester SendTalk podcast**

The process is outlined in our podcast episode “What are the first steps to the SEND Tribunal?” available here: [SEND Talk Podcasts (iasmanchester.org)](https://www.iasmanchester.org/podcasts)

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| **Contact Details for SENDIASS Manchester**  Helpline Telephone number: 0161 209 8356. Please clearly leave your name, contact number and a brief message on the answerphone and a member of the team will contact you within 24 hours or the next working day.  **Or**  Email your query to us: [**sendiass@manchester.gov.uk**](mailto:sendiass@manchester.gov.uk) leaving your name, child’s name and their date of birth.  You can complete our website contact form: [**Contact Us (iasmanchester.org)**](https://www.iasmanchester.org/contact)  Visit Manchester SENDIASS website [**About SENDIASS Manchester (iasmanchester.org)**](https://www.iasmanchester.org/)  Manchester SENDIASS Podcasts [**Listen to our SEND Talk podcasts**](https://www.iasmanchester.org/podcasts)  Manchester SENDIASS YouTube channel [**https://www.youtube.com/@SENDIASSManchester**](https://www.youtube.com/@SENDIASSManchester)    **QR code for the website QR code for Facebook page** |