

Information for Parents and Carers

Appealing the Needs (Section B) and/or Provision (Section F) of an EHC Plan

This information will also be helpful if you are appealing the school/setting or type of school/setting named, as the contents of the plan are relevant to the appeal.

It is always a good idea to continue talking to the local authority about your concerns or any questions that you have. Further information could help you to decide whether to appeal, and if you do decide to then it will help to build your case.

Before appealing, you must first consider **mediation**, which can be really useful, for example where:

- You would like an opportunity to discuss your issues, and to find out more about how the local authority reached their decision
- You have some additional information or a new report that you would like to share with the local authority
- The local authority have omitted to include information provided during assessment
- You believe further assessment is required to determine your child's needs

It is possible following mediation that the local authority will agree to amend the plan, or arrange for further assessment, thereby avoiding the need to appeal. If, after mediation, you decide to pursue an appeal, you must complete the SEND35 appeal form. This needs to be sent to the tribunal service along with a copy of the mediation certificate and the decision letter within 4 weeks of the date on the mediation certificate, or 8 weeks from the date of the decision letter, whichever is the longest (see our appeals process guide for more information).

The following information will help you to prepare for the appeal with regard to the contents of the plan.

The legal position

The Children and Families Act 2014 says:

...an EHC plan is a plan specifying—

- the child's or young person's special educational needs;
- the special educational provision required by him or her; (37 (2))

And:

- Health care provision or social care provision which educates or trains a child or young person is to be treated as special educational provision (instead of health care provision or social care provision). (21 (5))

The SEND Regulations (section 12) say that each section of an EHC plan must be separately identified.

So what does this mean?

It is really important that sections B and F accurately reflect your child/young person's Special Educational Needs and Provision, including any related health or care provision which educates or trains your child.

Preparing for Appeal

Your appeal needs to explain and evidence the reasons why you believe it is necessary for the special educational needs and provision to be amended in the EHC plan.

If there has been a recent EHC needs assessment, start by looking at the professional reports and cross-reference them with the EHC plan. It could be helpful to use a highlighter pen to help you see

Supporting Evidence

Listed below are some examples of supporting evidence. They may not all be relevant to your case.

- Your child/young person's views – this can be a short video
- Your own views
- Progress reports
- Statements from teachers who work with your child
- Medical reports/assessments
- IEP/support plan/pupil passport/provision map
- Home/school diaries
- Assessment/specialist reports
- Exclusion letters/reports
- Letters/emails from setting/local authority/health/specialist/'continuing care assessment'
- Examples of school or homework (can be helpful where rate of progress is in dispute)
- You can request a copy of your child's school record (you will likely be charged for photocopying)
- Second opinion - where you disagree with a professional report or recommendation, where finances allow you could explore private assessment. Where views of professionals differ each is given equal weight at tribunal.

Consider the Local Authority (and/or Health Provider) View

Find out why they do not want to accept your proposed changes, and use the opportunity to explain your reasons. Point to evidence and provide copies of reports with highlighted sections to help you explain.

Witnesses

You can ask a range of professionals to be your witness. You will need to establish whether they can provide a letter, report or a witness statement which helps you to evidence your key points. You may, for example, ask that they clarify or expand on information that they have already provided as part of the assessment.

You could ask if they will come along to the hearing, if they decline you can request a summons for them to attend - before you do this be sure they intend to support your case! Therapists and psychologists are likely to charge a daily fee to attend a hearing, and it will be your responsibility to cover these costs.

If you need to ask any questions or for further advice, please contact:

Barnardo's SENDIASS on **0191 4784667**

or email **DAISS@barnardos.org.uk**