

NE Lincs SENDIASS Fact Sheet

Appealing to the SEND Tribunal – Refusal to Re-Assess

The accurate information provided within this pack is given in line with legislation and statutory guidance.

<https://www.gov.uk/government/publications/form-send35-special-educational-needs-and-disability-tribunal-appeal>

The legal test

Section 44 of the Children and Families Act 2014 states that : A local authority must secure a re-assessment of the educational, health care and social care needs of a child or young person for whom it maintains an EHC plan if a request is made to it by (a) the child's parent or the young person, or (b) the governing body, proprietor or principal of the school, post-16 institution or other institution which the child or young person attends (3) A local authority may also secure a re-assessment of those needs at any other time if it thinks it necessary.

However – it is important to note that the LA do not have to reassess if they have carried out an assessment within the previous six months or if they consider that a further assessment is not necessary.

Reasons for your appeal

Why do you feel a re-assessment of your child/young person's needs is required? Use the current EHCP to provide more information. For example:

I believe that the special educational needs specified in Section B of the EHC plan no longer reflect their needs because ***[explain reasons/evidence for believing these needs have changed and detail changes to the EHC plan you believe are required.***

[And/or:]

I believe that the special educational provision in Section F of the EHC plan is no longer suitable because ***[explain reasons/evidence for believing the provision required has changed and detail changes to the EHC plan you believe are required.]***

[And/or:]

I believe that the **[school / college]** named in Section I of the EHC plan is no longer able to meet **[his / her]** needs because **[explain reasons/evidence for believing the current school/college is no longer suitable and explain why you believe a re-assessment is required to identify a suitable setting.**

Evidence to consider gathering and submitting with your appeal:

- Information which suggests change in need/provision
- Records of exclusions or a diary of any informal exclusions that have occurred
- Attendance records
- Previous Annual Review reports/outcomes

Any records from school can be gathered by making a subject access request.

If you would like help or want to discuss how we can support you to resolve any problems please call;

NE Lincs SENDIASS on **01472 355365**

or email:

nelincs@barnardos.org.uk

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