

# What if I do not agree with decisions about SEN provision?

This information is about what you can do if your child has special educational needs (SEN) or a disability and you are unhappy about the help they are getting.

We can:

- listen to your concerns;
- help you sort out the issues;
- identify other people who can support you;
- help you decide what to do next;
- explain the law and your rights.

The SEND Code of Practice<sup>1</sup> says:

**Decisions about provision for children and young people with SEN or disabilities should be made jointly by providers, parents, and children and young people themselves, taking a person-centred approach, with the views of children, young people and parents taken into account when those decisions are made.** (11.1)

## First steps

If you are not happy about the help that your child has at school the first step is to talk to their teacher, the special educational needs coordinator, or the headteacher.

If you think the school is doing all it can but your child needs even more help, you can ask the local authority for an Education, Health and Care (EHC) needs assessment.

If your child has an EHC plan you can also contact the Statutory Assessment and Review Team on (01983) 823470.

We can help you prepare for and attend a meeting. If you still have concerns we can help you decide what to do next.

## What next?

If you still have a problem you might be able to:

- seek some help to put your concerns forward;
- make a complaint;

- ask for independent disagreement resolution or mediation;
- appeal against a decision.

We can tell you more about each of these and help you decide what to do.

## Seeking help

It might be helpful to ask a friend or relative to attend a meeting with you. It is a good idea to keep notes or have records of what the school has done and has told you.

We can give you impartial information and advice about possible ways forward.

We might also be able to offer you independent support, or tell you about local or national groups that provide information and advice.

## Making a complaint

If you think that the school, college or Isle of Wight Council could do more, you can complain using their complaints procedure. They will send you a form if you ask for it. You will usually need to:

- have tried to resolve your complaint by speaking to the right people
- put your complaint in writing, using the word 'complaint'
- be clear about all the issues you want resolved
- state what you want to happen
- give a reasonable time by which you would like a response.

If you are not happy with the outcome of making a complaint or feel that it has not been dealt with properly we can give you information on what to do next.

You can find out more about complaints procedures in

<sup>1</sup> [www.gov.uk/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25)

the SEND Code of Practice<sup>2</sup> sections 11.2 and 11.67 to 11.111. If you want help to understand the different procedures, or advice on which to use, please contact us.

## Disagreement resolution

Many disagreements can be sorted out by talking with the school, college, local authority, or, for health services, the Clinical Commissioning Group.

The SEND Code of Practice<sup>2</sup> says:

**Decisions about provision for children and young people with SEN should be made as soon as possible. In most cases this will be achieved by early years providers, schools, colleges, local authorities and clinical commissioning groups (CCGs) working closely together and agreeing what should be provided with parents and young people.** <sup>(11.3)</sup>

Sometimes it can be difficult to reach agreement. We can help you by providing impartial information, advice and support.

The SEND Code of Practice says:

**Local authorities must make disagreement resolution services available to parents and young people. Use of the disagreement resolution services is voluntary and has to be with the agreement of all parties. The service, while commissioned by it, must be independent of the local authority – no-one who is directly employed by a local authority can provide disagreement resolution services.** <sup>(11.6)</sup>

Global Mediation Ltd (SEN) is an independent service that will provide a trained mediator to facilitate a discussion. The purpose is to look for a way forward that all the parties accept. The service is free and confidential - and you can choose whether to use it. Email: [sen@globalmediation.co.uk](mailto:sen@globalmediation.co.uk) or telephone: 0800 064 4488.

The disagreement resolution service is there to help resolve three kinds of disagreement between parents or young people and the organisations that are responsible for making provision for children and young people with special educational needs. These are about:

- how early years providers, schools and further education institutions carry out their duties for children and young people with SEN. For local authorities this includes keeping education and care provision under review, assessing needs and drawing up Education, Health and Care plans. For governing bodies and

proprietors of schools it includes using their 'best endeavours' to meet children and young people's SEN;

- the special educational provision made for a child or young person by early years providers, schools or further education institutions. This includes children and young people receiving SEN support and those with EHC plans;
- health or social care provision when this part of an EHC needs assessment, while EHC plans are being drawn up, reviewed or when children or young people are being reassessed.

Disagreement resolution services can also be used:

- during EHC needs assessments;
- while EHC plans are drawn up;
- while waiting for Tribunal appeals;
- at review;
- during reassessments.

SEND Information Advice and Support Service or Global Mediation Ltd (SEN) can help you decide if independent disagreement resolution is the right way forward.

You can find out more about disagreement resolution services in the SEND Code of Practice<sup>2</sup>, sections 11.6 to 11.10.

## Mediation

Mediation is a type of disagreement resolution for disagreements that can be appealed to the Special Educational Needs and Disability Tribunal. The service is free and confidential.

The SEND Code of Practice says:

**If parents and young people want it to, mediation can take place following decisions by a local authority not to carry out an EHC needs assessment, not to draw up an EHC plan, after they receive a final EHC plan or amended plan, following a decision not to amend an EHC plan or a decision to cease to maintain an EHC plan.** <sup>(11.13)</sup>

If you wish to register an appeal with the **First Tier Tribunal (SEN and disability)** you first have to consider whether to enter mediation and obtain a certificate saying you have considered it. This is called mediation advice. If you decide not to go into mediation and tell the mediation adviser, they will send you a certificate within three working days and you can then register your appeal. You do not have to go into mediation if you do not want to – you only have to consider whether to or not.

Your local authority must tell you about mediation and who to contact for the initial advice when they send you

<sup>2</sup> [www.gov.uk/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25)

their decision. You must contact the mediation adviser within two months of getting the decision. Your time limit for appealing to the Tribunal is two months from the date of that decision, or one month from the date of the mediation certificate, whichever is the later.

There is one exception to this rule. You do not need to seek. You can register an appeal without considering mediation first if the appeal is only about the name of the school, or college, named on the plan, the type of school or college specified in the plan or the fact that no school or other institution is named.

If you choose mediation the local authority (or Clinical Commissioning Group) must take part. The meeting will be arranged within 30 days.

An independent mediator runs the meeting. When the meeting has finished the mediator issues you with a certificate within three working days. You need this certificate if you still want to register an appeal with the First Tier Tribunal. Your time limit for appealing to the Tribunal is two months from the date of the decision you disagree with, or one month from the date of the mediation certificate, whichever is the later.

Mediators must be trained and accredited and are independent of the local authority and Clinical Commissioning Group.

If you go over the two month deadline for considering mediation, or want to appeal without a certificate, the law says you can still approach the Tribunal to see if you can register your appeal.

Either us or Global Mediation Ltd (SEN) can help you decide if mediation is the right way forward.

You can find out more about mediation in the SEND Code of Practice<sup>3</sup>, sections 11.13 to 11.38.

## Do I have to choose between making a complaint, using disagreement resolution, appealing to the Tribunal and mediation?

Usually you can follow more than one route. For example you can still make a complaint if you have already tried disagreement resolution. We can explain your rights and the different procedures.

## Appeals

The SEND Code of Practice says that parents and young people can appeal to the tribunal about:

- **a decision by a local authority not to carry out an EHC needs assessment or re-assessment;**
- **a decision by a local authority that it is not necessary to issue an EHC plan following an assessment;**
- **the description of a child or young person's SEN specified in an EHC plan, the special educational provision specified, the school or other institution or type of school or other institution (such as a mainstream school/college) specified in the plan or that no school or other institution is specified;**
- **an amendment to these elements of the EHC plan;**
- **a decision by a local authority not to amend an EHC plan following a review or re-assessment;**
- **a decision by a local authority to cease to maintain an EHC plan.** (11.45)

You can find out more about appeals to the Tribunal in the SEND Code of Practice<sup>3</sup>, sections 11.39 to 11.55.

We can explain the appeal process to you and provide impartial advice and support.

You can also appeal against school exclusion. You can find out more about school exclusion appeals on the Independent Parental Special Education Advice (IPSEA) advice line 0800 018 4016 or [www.ipsea.org.uk](http://www.ipsea.org.uk).

<sup>3</sup> [www.gov.uk/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25)

## Where can I get more information, advice or support?

You can read about education, health and care needs assessments in the SEND Code of Practice<sup>4</sup> chapter 9.

The Local Offer ([www.iwight.com/Local-Offer](http://www.iwight.com/Local-Offer)) includes more information on;

- advice and support during the process of assessment;
- details of the local arrangements for independent support;
- details of other organisations, support groups and services that may be of help;
- information, advice and support about your rights to make a complaint, seek independent disagreement resolution or mediation.

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<sup>4</sup> [www.gov.uk/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25)

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If you need further information, please contact

**SEND Information, Advice and Support Service** 11 Orchard Street, Newport, Isle of Wight, PO30 1JZ.

**Tel:** 01983 825548. **Email:** [sendiass@iow.gov.uk](mailto:sendiass@iow.gov.uk) **Website:** [www.iowsendiass.co.uk](http://www.iowsendiass.co.uk)