

Appealing a Refusal to Assess with the SEND Tribunal

Information pack

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What does “refusal to assess” mean?

You can ask your local council to assess your child for an EHCP. But sometimes, the council says “No”.

This is called a refusal to assess. This means they don’t want to check if your child needs an EHCP.

What can I do if the council says “No” to assessing my child/young person?

If a parent, young person, school, or college asks for an EHC needs assessment, the Local Authority (LA) must decide:

- does the child or young person have (or might have) special educational needs (SEN)?
- might they need special support through an EHC plan?

If the answer to both is yes, the LA must do the assessment. This rule is in the Children and Families Act 2014, section 36(8).

The law also tells LAs to follow the SEN and Disability Code of Practice 2015.

In paragraph 9.14, it says the LA should check:

- Has the school or setting already tried to help?
- Has the child or young person still not made enough progress, even with help?

If the LA has said no to your request, you can appeal the decision. This means asking the SEND Tribunal to look at the decision again.

Time limits for appealing

You must appeal within:

- 2 months of the date on the council’s refusal letter, OR
- 1 month after your mediation certificate (whichever is later)

You can find out more about mediation here: [LINK UP MEDIATION RESOURCE](#)

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How do I appeal?

You need to fill out a form called **SEND35**. You can fill in the form **online, or download and send it by post**.

You can find the form here: [SEND35A – Application for appeal – Refusal to secure an EHC Needs Assessment](#)

Filling in the appeal form

In the relevant boxes of the form, include:

- Child's details:
 - Full name
 - Date of birth

(or your own, if you are a young person appealing on your own behalf)
- Your details:
 - Full name
 - Address
- Parental responsibility:
 - Names of anyone else with parental responsibility (if applicable)
- Local Authority (LA) Info:
 - Name of your Local Authority
 - Date of decision being appealed or date of the final EHC Plan
- Accessibility Requirements (if needed):
 - E.g., translated documents, wheelchair access, reader, signer, difficulty using phone

Your reasons for appeal

This is a crucial section. Be clear, structured and supported by evidence:

- **Why do you disagree?**
 - State your reasons clearly
 - Use paragraphs, headings, or numbered points for clarity
 - Be concise and stay focused on facts
- **Back up with evidence:**
 - Refer to school reports, assessments, review records, etc.
 - Mention any evidence you don't yet have but plan to submit later

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Documents to send with the form

Include the following:

- Completed and signed appeal form
- Copy of the **LA's decision letter**
- Your **mediation certificate**
- **All supporting evidence** (photocopies or scans only)
- **List of documents enclosed** (preferably in chronological order)

Keep copies of everything you send.

After submission

The Tribunal aims to contact you **within 10 working days**.

You will receive:

- Key dates for the appeal
- You'll get a letter saying your appeal has been received.
- **You'll be given a hearing date** (a meeting with a judge).
- You can go to the hearing by **phone, video, or in person**.
- The judge will listen to you and the council.
- **The judge will make a decision** – and you'll be told in writing.

Costs

It is free to appeal. There are **no tribunal fees** for parents or young people.

Lawyer fees are your responsibility unless you qualify for legal aid.

Further information and support:

[Find your local IAS service](#)

[Asking for an EHC needs assessment | \(IPSEA\) Independent Provider of Special Education Advice](#)