



Mediation - If you want to appeal to the SEND Tribunal about an Education Health and Care Plan (EHCP) you must consider mediation

Mediation is a less formal way of trying to settle the disagreement between you and the Local Authority (LA).

It is Voluntary – you do not have to have a mediation meeting before you appeal and you can withdraw at any time.

Free of charge

Quicker and less formal than a tribunal (held within 30 days of your request for mediation)

Confidential and without prejudice (nothing shared at mediation can be used at Tribunal)

Simple and flexible- you will be part of the decision making process and you can bring a friend, advisor or advocate with you.

In most cases you need a mediation certificate before you can register an appeal.
The LA will include details of the mediation advisor in the decision letter you received regarding the EHCP.

Contact details are: Global Mediation. Tel no 0800 0644488 / 0208 4411355

You need to contact the mediation advisor within two months of the date on your decision letter. They will give you unbiased advice and information to help you decide if you want to try mediation or go straight to the Tribunal.

If you choose not to have a mediation meeting the advisor will issue you with a mediation certificate immediately.

If you decide to have a mediation meeting you will be issued with the certificate after the meeting – no matter what decision has been made.

You have one month from the date on the certificate or two months from the date on the decision letter (whichever is the later date) to register your appeal.

The Mediation Meeting

The mediation meeting is managed by an independent mediator who has knowledge of SEND and the law.

- **The mediator is impartial and does not take sides.**
- **The mediator can ask questions and clarify what is being said.**
- **This will ensure that the meetings are fair and that everyone's views are heard.**

You can take a friend, supporter, and/ or representative to help you, any relevant professionals can also be invited.

If you choose to attend a mediation meeting.

- You can talk with someone from the Local Authority about your concerns regarding the EHCP and a solution may be found that everyone agrees with and prevent the need for a tribunal (The representative from the LA should be able to make a decision at the meeting).
- It can also give you more time to appeal as the appeal deadline is two months from the decision letter or one month from the date on the mediation certificate, whichever is the later.

If an agreement is reached in the meeting, ensure that this is noted in the Mediation agreement and that it clearly sets out what the LA has agreed to do.

The SEND regulations 2014 sets out timescales that the LA must follow if they have agreed any of the following

- To carry out an EHC needs assessment, it must start within 2 weeks, the decision not to issue an EHC plan within 10 weeks or to issue a final within 14 weeks.
- To issue a plan, the draft must be issued within 5 weeks and finalised within 11 weeks.
- To change the name of the school, the amended EHC plan must be issued within 2 weeks.
- To amend the EHC plan, the amended version must be issued with 5 weeks.

If the LA agree to take certain steps in a mediation agreement and then fail to do so, this could be challenged by a Judicial Review as they are acting unlawfully

If mediation does not fully resolve the issues and you are not happy with the outcome you can still appeal to the Tribunal.

The Tribunal's decision will not be affected by your choice of attending mediation or not, nor by any decision made at that meeting.

When can mediation be used?

You can go to mediation before an appeal when the LA has made one of the following decisions.

- Not to carry out an EHC needs assessment or re-assessment.
- Not to issue an EHC plan.
- Not to amend an EHC plan.
- To cease to maintain an EHC plan.

You can also choose mediation if you receive a final or amended plan and you:

- Disagree with the parts of that describe the special educational need and provision.
- Disagree with the Health and Social care aspects.

There is an exception when mediation does not have to be considered.

Mediation is not needed if you are only appealing section I of an EHC plan.

Section I: the name of the school or other institution to be attended by the child or young person, and the type of that institution (or just the type if no specific institution is named);

An appeal can be registered without a certificate

Please use the link below for more information regarding this, or contact our helpline on 0300 123 6706

www.ipsea.org.uk/appealing-against-the-school-or-other-setting-named-in-your-ehc-plan

You can also get in touch with the SEND Information Advice & Support Service (IAS Service)

Helpline Number 0300 123 6706 - open 9 – 5, Monday – Friday.

You can leave a message outside of these times and we will call you back.

Email – information.lineteam@lancashire.gov.uk

www.facebook.com/LancashireSENDInformationAdviceandSupportTeam