

Challenging or disagreeing with decisions

This section looks at what to do if you disagree with decisions made by professionals. That includes your local authority, your child's school or other setting, local health and other services. It tells you what your rights are and when and how you can challenge decisions.

You may not always agree with a decision your child's early years setting, school or college has made about your child's support. You should first raise this with them and try to reach agreement. If you can't reach agreement, they can advise you on their procedures for making complaints.

Your local authority must make arrangements for both disagreement resolution and mediation services to be available. These services are independent of your local authority and can provide you with a quick and informal way of resolving disagreements.

Disagreement resolution

Disagreement resolution services are for all parents of children and young people with SEN, and young people themselves with SEN. Using the service is voluntary and covers SEN provision as well as disagreements about health and social care. Details about the arrangements for disagreement resolution will be set out in West Berkshire's Local Offer

<http://fis.westberks.gov.uk/kb5/westberkshire/fsd/localoffer.page> .

There are three areas of disagreement that this service can help with:

- If you disagree with your local authority, your school, early years setting or college about how they are carrying out their education, health and care duties. This applies if your child has any kind of SEN – it's not just if they are going through EHC needs assessment or if they have an EHC plan
- If you disagree with your early years settings, school or college about the SEN provision they are making. This applies if your child has any kind of SEN – it's not just if they are going through an EHC needs assessment or if they have an EHC plan
- If you disagree with your local authority or Clinical Commissioning Group (CCG) (see Glossary) about the health or social care provision during your child's EHC needs assessment, or about their EHC plan, and any review or reassessment of the EHC plan

Mediation

Mediation is also a voluntary process for parents and young people, which you can use if you cannot reach an agreement with your local authority or CCG in matters relating to EHC plans. Your local authority has to make an independent mediation service available to you. It only covers disagreements you might have in the following circumstances, where your local authority decides:

- Not to carry out an EHC needs assessment or re-assessment of your child
- Not to draw up an EHC plan for your child, once they have done an assessment
- Not to amend your child's EHC plan after the annual review or re-assessment
- To cease to maintain your child's EHC plan

Where your local authority has drawn up an EHC plan for your child, mediation must be available if you disagree with:

- The parts of the plan which describe a child's special educational needs
- The special educational provision set out in the plan

Your local authority must provide you with access to an independent mediation adviser who you will need to contact for information about mediation if you are thinking about appealing to the SEND Tribunal. Details about the arrangements for mediation are set out in West Berkshire's Local Offer <http://fis.westberks.gov.uk/kb5/westberkshire/fsd/localoffer.page>

If you decide to go to a mediation meeting, the mediation adviser will inform your local authority who must meet you within 30 days. The mediation session will be run by an independent mediator who should have accredited training. It should be at a place and time that is convenient for you, and you will be told when and where the meeting will be at least 5 days before it happens. You can bring a friend, adviser or advocate to help you. When the mediation has finished the mediation adviser must issue a certificate within 3 working days. You will need this certificate to register an appeal to the SEND Tribunal.

If, once you have contacted a mediation adviser, you decide that you do not want to go to mediation, the adviser will issue you with a certificate within 3 working days.

You can also go to mediation with your local authority or your local CCG about the social care and health parts of an EHC plan if you tell your local authority that you are unhappy with these parts of the plan.

Appealing to the Special Educational Needs and Disability (SEND) Tribunal

Before you can appeal to the SEND Tribunal, you must have contacted a mediation adviser (unless your appeal is only about the school your local authority has named in your child's plan or if they have not named a school in it). You will need a certificate from the mediation adviser to register an appeal with the SEND Tribunal. You have one month from receiving the certificate or two months from the original decision (whichever is the later date) to register an appeal with the Tribunal.

The SEND Tribunal is a legal body. It hears appeals against decisions made by local authorities about EHC needs assessments and EHC plans. You can appeal to the Tribunal if your local authority decides:

- Not to carry out an EHC needs assessment or re-assessment for your child
- Not to draw up an EHC plan for your child, once they have done an assessment
- Not to amend your child's EHC plan after the annual review or re-assessment
- To cease to maintain your child's EHC plan

You can also appeal if you disagree with what your local authority includes in your child's EHC plan such as:

- How they describe your child's SEN
- What SEN provision is included for your child
- The school (or other educational establishment) your local authority says your child should attend, or if they don't include a school
- If they change any of these details without your agreement

The SEND Tribunal also hears disability discrimination claims against schools (and against local authorities if the local authority is responsible for the school).

Disagreeing about other things

Local authorities and others have arrangements in place if you disagree with decisions taken, or want to complain about other things such as:

- Health provision

- Social services provision
- Your local authority

Contact us on the number above or see

http://www.westberkssendiass.info/westberks_dev/index.php/About_us for information and advice.

Further information

Chapter 11 of the 0-25 SEND Code of Practice

<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

provides details of how you can challenge decisions or raise complaints on all such matters. This chapter also includes details of disagreement resolution arrangements, mediation and appealing to the SEND Tribunal that have been described in this section. You can also look at your West Berkshire's Local Offer <http://fis.westberks.gov.uk/kb5/westberkshire/fsd/localoffer.page>