

How to complete the SEND35 form

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This gives you useful information regarding the tribunal process and how to complete the form. Do read it carefully. The form needs to be completed in block capitals unless otherwise stated. If you are completing the form online please remember to save it first to avoid losing all your hard work.

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Section 1

Please complete child/young person's details (who the appeal is for).

Section 2

You need to tick the relevant boxes you are appealing against.

For placement appeals, it is the bottom statements under the 'and' that are relevant to you. If the LA has named a school/college and you disagree tick the second to last one (I disagree with the school/college/institution named in the EHC plan (Section I)). If the LA has not named any school/college then tick the last one on the list (or The Local Authority has not named a school/college/institution in the EHC plan (Section I))

Often the incorrect school is named in Section I because the child's needs are not properly described in Section B and the provision needed to meet those needs is not included in Section F. If after reading the Plan you feel that your child's needs are not all written in there and/or the things your child needs to be successful at school are not included in the Plan, then you need to tick the two boxes below the 'and' (I disagree with what the EHC plan says about the child or young person's special educational needs (Section B) and (I disagree with what the EHC plan says about the educational help/provision the child or Young Person requires (Section F)

If you are appealing against Section I of the EHCP provide the full name and full address of the school/college/ institution that you are asking the Tribunal to name instead. Then confirm you have contacted the school/college/institution about a place at the school/college/institution, the date you contacted them and any response. It is best to contact the school in writing (via post or by email).

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If you are appealing for an independent placement you can only appeal for an independent placement if you have confirmed with that school/college/institution in writing that they can meet needs and have a place available.

If you cannot name a school at this stage, you need to state briefly a type of school/college/institution you would prefer, i.e. a school that can meet the child's specific speech and language needs; a school that can meet the child's social emotional and mental health needs or a school with small class sizes etc. You can refer to the EHCP and any reports to support your preference.

If you are asking Tribunal to make any recommendations for health or social care then please tick these boxes:

- I disagree with what the EHC plan says about health
- I disagree with what the EHC plan says about social care

Most parents do not wish to ask the tribunal service to make recommendations to the NHS or social services but if you feel social services should be funding provisions to support your child or an NHS service should be providing a service which you have been refused, then you can ask that the judge makes a recommendation to them. Unlike with the LA, a judge cannot rule an NHS or social care service MUST carry out an action, they can only recommend that they do.

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Section 3: Reasons for appeal

Box 1: I am bringing this appeal because...

All parents/young people should complete this box. Simply state why you want to appeal.

Box 2: I disagree with the description of special educational needs (Section B of the EHCP) because:

If you are wishing to request any changes to section B of the EHCP this is where you would list them. Put any needs your child has that have been missed off Section B. Typically mental health needs and sensory needs are the two things that get missed out of an EHCP but your child might have other needs the LA have not included in there.

Box 3: I disagree with the specification of special education provision (Section F of the EHCP) because:

If you are wishing to request any changes to section F of the EHCP this is where you would list them. Section F and Section B are linked. Any needs that the LA missed off Section B will also have a provision missing from Section F.

Box 4: The LA have not considered:

If you believe the LA should have considered other facts about your child's case when they made their decision, i.e. if you feel the LA didn't take into account a specific report or sections of a report, your child has been out of school or medical needs etc.

Box 5: I disagree with the LA's choice of school/college/institution (Section I of the EHCP) because:

If you think the named school cannot meet needs or is the wrong type of school for your child, then this is your opportunity to say the reasons why you believe the school cannot meet the child's needs/young person's needs. You might wish to look and highlight anything in the EHCP you might feel the named school cannot provide.

Box 6: I prefer my choice of school/college/institution (Section I of the EHCP) because:

This is an opportunity to say the reasons why you would like your preferred school to be named on the plan. You might wish to highlight anything in the EHCP that supports your preference.

Note: The 'reasons for appeal' boxes on the form are quite small and it's likely you will need to use an additional sheet of paper. Make this clear on the form and ensure you have your child's name, date of birth on the additional pages and number them.

Page 5**Section 4: Reasons for asking for a recommendation for Health and/or Social Care****Box 1: I disagree with the health care needs and health provision (Section C and G if concerning an EHC plan) because:**

Please write the reasons you are not happy with what Section C and G says about your child/young person. These are services that the NHS provides such as CAMHS.

Box 2: I want the Tribunal to make a recommendation about the health care needs and health provision (Section C and G if concerning an EHC plan) follows:

Please write any recommendations you would like to see about the health care needs (Section C) and the health provision (section G).

Box 3: I disagree with the social care needs and social care provision (Section D and H if concerning an EHC plan) because:

Please write the reasons you are not happy with what Section D and H says about your child/young person. These are services provided by Children's Services for your child.

Box 4: I want the Tribunal to make a recommendation about the social care needs and social care provision (Section D and H if concerning an EHC) as follows:

Please write any recommendations you would like to see about the social care needs (Section D) and the social care provision (section G).

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Section 5: Making the appeal

Please write which LA made the decision and then the date on the letter you received. In your case this will be Hampshire County Council.

It is important to keep to the Tribunal deadlines but should the appeal be late the tribunal will always consider late appeals if there is a good reason, so if it is a late appeal then please explain the reasons why it is late on this page and remember to tick the correct box.

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Section 6: Who is making the appeal?

This is where the parent or young person who is making the appeal would put their details. All boxes need to be completed if possible. The email address does not need to be in capitals if the address includes lower case letters.

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Section 7: Who else is involved in the appeal?

First box

If any other person or organisation shares parental responsibility for the child or has been appointed as a Deputy by the Court of Protection for a

Young Person, please give the name and contact details of each person or organisation and confirm that you have notified them of the appeal. This could be another parent for example.

Second box

Write here if you believe they should not receive details of the appeal and explain why. This might be due to domestic violence or long-term estrangement for example.

Third box

If any other court or tribunal has made an order concerning the child or young person, including the family court, you must provide the details.

Your advocate

If you are a Young Person making the appeal, do you have an advocate to support you to express your views? If you do, then provide their details.

You don't need to have an advocate but it is an option should you feel you need someone to talk on your behalf.

Hampshire SENDIASS are not advocates but if you meet our criteria we will do our best to provide a member of the team to support you. You can read more about the criteria [on our website](#).

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Your representative

Provide details of Representative.

You don't need to have a representative.

You may pay for legal representation from a solicitor/law firm. They will prepare and present your case at the hearing. Most parents do not do this and 95% of parents are successful on appeal so please do not feel you have to pay out for legal representation. Hampshire SENDIASS are here to guide you through the process by phone or e-mail if you have any questions.

Legal Aid

Some parents are eligible for Legal Aid. Legal Aid will help with certain elements of the preparation for appeal and they can fund private assessments to use as evidence at the tribunal if this is needed. It will not

provide a lawyer for the hearing (except in very exceptional circumstances).

You can check if you are eligible for Legal Aid by visiting the following government website:

<https://www.gov.uk/check-legal-aid>

You can contact IPSEA for possible representation. There is also SEN SOS who will charge a nominal fee.

Who should receive information about the appeal?

All paper and documents will go to the one person named on the form unless you tick one of these boxes in this section.

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Section 8: The hearing – your needs and requirements

Provide any details of any special needs or anything the court should be aware of including if you need a signer or need an interpreter so that they can consider this when looking at venues.

Section 9: Paper hearing

A paper hearing means that the tribunal judge and other tribunal members will only consider the written evidence in private and you do not attend a hearing.

You will not be told when the private hearing is taking place. You will be sent the decision in writing after the paper hearing.

If you want more details about the reasons for the tribunal's decision, you can ask for this by writing to the Tribunals or Appeals Service within one month.

The advantage of this is that your case will be sorted quicker. These are useful in cases where there is a lot of written evidence to support your case and you do not want to call witnesses.

The next box is asking if a date should become available for a tribunal hearing could you take it at short notice.

Existing claims/appeals:

If you have another current appeal or claim in relation to this child or a sibling provide details.

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Section 10: Checklist

You **MUST** include everything in this list where relevant. Missing paperwork will mean that the appeal is delayed.

- A signed and dated letter from the Local Authority giving you the right of appeal to HM Courts & Tribunals Service (the Local Authority decision letter) This is the letter that should have come from the LA stating their decision and giving you details of how to appeal should you wish to do so.
- A copy of the signed mediation certificate.
- Your reasons for making the appeal – Section 2 page 3 is your reasons for making the appeal and should be completed.
- The appeal form has been signed and dated.

This list is the minimum you **MUST** send with your appeal form. You can of course send any other evidence you have. Please remember to send copies only and no original documents. The Tribunal prefer it to be single sided if this is possible.

Section 11: Please sign below

Please sign and date the form. Each parent that is named on the form should sign the form.

If you have legal representation, they must sign the form also.

Section 12: Sending us your appeal

When you have completed the appeal form and signed it, send the form along with all the supporting evidence to either the email address or postal address given in this section.

If you are sending it through the post we advise to send it recorded delivery.

If you are emailing everything in write in the subject box “New Appeal”.

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Please list all the documents you are sending with the appeal form, the date of each document and number of pages, its author (if known), and, if it is not obvious, why the document is relevant.

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Information about how to access information regarding SEND Tribunal privacy policy.

Please note all communication from now on MUST go to the LA and Tribunal. Most changes would be on the Request for Change Form.

Hampshire SENDIASS

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