

Factsheet #1: Routes for Disagreement Resolution

This is one of a series of factsheets that have been prepared to inform local authorities of key information to routes to disagreement resolution. You can find further factsheets on Mediation and Disagreement Resolution Services in our [disagreement resolution online toolkit](#).

Routes for Disagreement Resolution	Responsibilities	Matters which can be discussed with these bodies	How to make contact?
<p>via the Educational Setting</p>	<p>Early years providers, schools and colleges Educational settings are required to have a formal complaint procedure in place.</p> <p>Governing bodies of maintained schools should make every effort to ensure anyone making a complaint is:</p> <ul style="list-style-type: none"> - treated fairly - given the chance to state their case - provided with a written response - informed of their appeal rights <p>For complaints made in writing to early year providers, they must respond within 28 days.</p> <p>Academies, free schools and independents schools must have a procedure which allows for complaints to be considered informally in the first instance. If the complainant remains dissatisfied, there should be a formal procedure for the complaint to be made in writing. If still unresolved, the complaint can be heard in front of a panel where at least one person must be independent of the school management.</p>	<ol style="list-style-type: none"> 1. Early year, school and college provision 2. SEND provision for child or young person including those on SEN Support as well as those with an Education and Health Care Plan 3. Disability discrimination 	<p>Follow the formal complaint procedure.</p> <p>In the first instance, concerns should be raised directly with the teacher, manager or principal.</p>
<p>via the Local Authority</p>	<p>All local authorities (LA) have a responsibility to consider complaints about decisions made in relation to the following:</p> <ul style="list-style-type: none"> - admission to schools (except in Voluntary Aided Schools) - EHC needs assessments - exclusion of pupils from school - child protection/ allegations of child abuse - complaints about the action of the Governing Body - school transport <p>The local authority's SEND information, advice and support service should make known to parents the possibility of resolving disagreements through:</p> <ul style="list-style-type: none"> - disagreement resolution services - mediation - education, health and social care providers - appealing to the Tribunal 	<ol style="list-style-type: none"> 1. LA maintained schools' provision 2. Decision not to assess 3. Undergoing EHC needs assessment 4. Decision not issue EHC plan 5. EHC plan matters regarding education, health and social care 6. Social care complaints 	<p>Complaints can be made under the Local Authority Complaints Procedure.</p> <p>The complainant can write to either the Director of Children's Services or the Designated Complaints Officer for the local authority concerned.</p>

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<p>via SEND Information, Advice and Support Services (SENDIASS)</p>	<p>SENDIASS can provide impartial advice about resolving disagreements, appealing to the Tribunal, the law on SEN, local SEN arrangements and support for their child's needs.</p> <p>The service can also help parents and young people prepare for meetings with the school, LA or other agencies including the Tribunal.</p> <p>SENDIASS will specifically be able to support parents and young people during the trial by:</p> <ul style="list-style-type: none"> - providing information on the trial and the rights of parents and young people - providing support with managing appeals, which can include preparing cases and attendance at hearings - signposting to mediation and further support 	<ol style="list-style-type: none"> 1. Early year, school and college provision 2. Provision for child or young person including, those with special educational needs and disabilities but no Education and Health Care Plan 3. Disagreement resolution services 4. Appealing to the Tribunal 	<p>If parents or young people require further information, support or advice, they should contact their local SENDIASS.</p> <p>Find a local SENDIAS service</p> <p>Information for children and young people about SENDIAS services</p>
<p>via Disagreement Resolution Services</p>	<p>All local authorities must make disagreement resolution services (DRS) available to parents and young people.</p> <p>DRS can be used widely. Issues discussed can relate to EHC needs assessments and EHC plans, but also broader issues relating to SEND provision, including that provided by schools for children on SEN Support.</p> <p>DRS is voluntary and must be with the agreement of all parties. DRS is commissioned by the local authority but must be independent of the local authority.</p>	<ol style="list-style-type: none"> 1. How providers carry out duties in educational settings 2. Provision for child and young person including, those with special educational needs and disabilities but no Education, Health and Care Plan 3. Decision not to assess 4. Undergoing EHC needs assessment 5. Decision not issue EHC plan 6. EHC plan matters regarding education, health and social care 	<p>Details of the disagreement resolution services must be set out in the Local Offer.</p>
<p>via Mediation</p>	<p>All local authorities must make mediation services available to parents and young people. Information must be provided to parents and young people so that, if they so choose, they can take part in mediation before a possible appeal to the Tribunal.</p> <p>Mediation is voluntary for parents and young people however, before proceeding with an appeal, the parent of young person must have contacted an independent mediator adviser and discussed whether mediation might be a suitable way of resolving the disagreement.</p> <p>Mediation is specifically for decisions related to Education Health Care needs assessments and plans.</p> <p>Any mediation provision must be independent of local authorities.</p>	<ol style="list-style-type: none"> 1. Decision not to assess 2. Decision not to issue EHC plan 3. EHC plan matters regarding education, health and social care 	<p>Details of mediation information services and mediation itself must be set out in the Local Offer.</p>

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<p>via First-Tier Tribunal (SEND) and Court (Upper-Tier Tribunal)</p>	<p>First-Tier Tribunal An independent body which has jurisdiction under section 333 of the Education Act 1996 for determining appeals by parents and young people against local authority decisions on EHC needs assessments and EHC plans.</p> <p>In 2018, a national trial commenced to extend the powers of the First-Tier Tribunal to make non-binding recommendations about the health and social aspects of Education, Health and Care Plans as part of a special educational appeal. SEND Tribunal have temporary powers to make recommendations about health and social care needs and provision in relation to EHC plans.</p> <p>Upper-Tier Tribunal Following a SEND Tribunal decision either party can apply to the SEND Tribunal for the decision to be set aside, reviewed or appealed on a point of law.</p>	<p>First-Tier Tribunal</p> <ol style="list-style-type: none"> 1. Decision not to assess 2. Decision not to issue EHC plan 3. EHC plan matters regarding education, health and social care 4. Disability discrimination in schools <p>Upper-Tier Tribunal Following a SEND Tribunal decision either party can apply to the SEND Tribunal for the decision to be set aside, reviewed or appealed on a point of law.</p>	<p>The parent or carer can appeal to Tribunal once they have either: attended mediation or, made contact with the independent mediator adviser and considered mediation services.</p> <p>SEND tribunal service</p>
<p>via Ofsted</p>	<p>Office for Standards in Education, a non-Ministerial government department established under the Education (Schools) Act 1992 to take responsibility for the inspection of all schools in England.</p>	<ol style="list-style-type: none"> 1. Early years, LA maintained schools and academies provision 	<p>Complainants can contact Ofsted but only when the complaint is about the early years provision or the school as a whole.</p> <p>Complainants can contact Ofsted on 08456 404045 or by email enquiries@ofsted.gov.uk</p>
<p>via Local Government and Social Care Ombudsman</p>	<p>The Local Government and Social Care Ombudsman (LGSCO) investigates the process by which local authority decisions were made and whether there has been maladministration. This body does not examine the merits of a decision where the correct processes have been followed.</p> <p>The LGSCO will decide whether there has been an injustice to the complainant and/or there is evidence of maladministration.</p> <p>The LGSCO does not investigate matters which can be appealed to the Tribunal.</p>	<ol style="list-style-type: none"> 1. Decision not to assess (maladministration, delay etc.) 2. Undergoing EHC (maladministration) 3. Decision not to issue EHC plan (maladministration) 4. EHC plan matters regarding non provision of education and social care 5. Social care complaints 	<p>Complaints can be made to the Local Government and Social Care Ombudsman via its website.</p> <p>Alternatively, complaints can be made in writing to the following address: PO Box 4771 Coventry CV4 0EH</p>

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via NHS Complaints	<p>The NHS complaints arrangements cover the health services which a child or young person receives under an EHC plan.</p> <p>Local Healthwatch has a statutory role to provide patients with advice on how to take forward a complaint or resolve an issue (local Healthwatch may also notify Healthwatch England of concerns which need to be considered at a national level).</p>	<ol style="list-style-type: none"> 1. EHC plan matters regarding health needs and provision in the plan 2. Health complaints 	<p>Contact details for local Healthwatch are available on the Healthwatch for England website and should also be available with the Local Offer.</p>
via Parliamentary and Health Service Ombudsman	<p>The role of the Parliamentary and Health Service Ombudsman (PHSO) is to investigate complaints that individuals have been treated unfairly or have received a poor service from government departments and other public organisations in the UK, and the NHS in England.</p> <p>The PHSO can investigate complaints about the commissioning and provision of healthcare.</p> <p>The PHSO can conduct joint investigations with the LGO where a complaint includes concerns about the delivery of the health provision in EHC plans.</p> <p>The PHSO can also investigate a number of other organisations which have to have regard to this Code: Ofsted, the Education Funding Agency, the Skills Funding Agency, and the Department for Education (including its School Complaints Unit and the Secretary of State for Education).</p>	<ol style="list-style-type: none"> 1. EHC plan matters with the local government ombudsman 2. Health complaints 	<p>Complaints about government departments and public organisations must be referred by an MP. If the complainant has any difficulties getting in touch with an MP, they can contact the PHSO for help.</p>
via the Department for Education (DfE)	<p>School complaints unit, Education and Skills Funding Agency (ESFA) and Secretary of State</p> <p>School complaints unit directs where in DfE a complainant can formalise their complaint.</p> <p>Both the ESFA and the Secretary of State will look at whether the responsible body handled the complaint properly, rather than the substance of the complaint.</p> <p>The Secretary of State can look into complaints when the governing body of a maintained school or a local authority has acted unreasonably or has failed to carry out one of its duties.</p> <p>Any directions the Secretary of State issues must be 'expedient'.</p>	<p>School complaints unit</p> <ol style="list-style-type: none"> 1. LA maintained school provision 2. Provision for child or young person in LA maintained school including, those with SEND but no EHC Plan 3. Disability discrimination <p>ESFA</p> <ol style="list-style-type: none"> 1. Academies, sixth form college and general FE provision 2. Provision for child and young person including, those with SEND but no EHC Plan. <p>Secretary of State</p> <p>The Secretary of State would not intervene in a case where there is another avenue of redress such as the Tribunal or the LGSCO.</p>	<p>School complaints unit</p> <p>Guidance is provided on the DfE's website. Complaints can be posted, raised online or raised by telephone.</p> <p>ESFA</p> <p>ESFA can be contacted when the complainant has exhausted the professional bodies' own complaints procedure and remains dissatisfied. Guidance for ESFA complaints procedures can be found here.</p> <p>Secretary of State</p> <p>Secretary of State can be contacted when the complainant has exhausted the independent school complaint procedure and remains dissatisfied.</p>

Any enquiries regarding this publication or about SEND disagreement resolution in general should be sent to Mott MacDonald Ltd at SENDdeliverysupport@mottmac.com.

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