



Information Advice and Support Kent

A service for special educational needs and disabilities
helping you to make informed choices

Contact: Helpline 03000 41 3000
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What if I do not agree with decisions about SEN provision?

This information is about what you can do if your child has special educational needs (SEN) or a disability and you are unhappy about the help they are getting. It also covers what you can do if you are unhappy with decisions made by the Local Authority about the Education, Health and Care Needs Assessment and Plans (including Statements of Special Educational Need).

Information, Advice and Support Kent (IASK) can:

- listen to your concerns
- help you sort out the issues
- identify other people who can also support you
- help you decide what to do next
- explain the law and your rights.

The **SEND Code of Practice**** says:

Decisions about provision for children and young people with SEN or disabilities should be made jointly by providers, parents, and children and young people themselves, taking a person-centred approach, with the views of children, young people and parents taken into account when those decisions are made. (11.1)

First steps

If you are not happy about the help that your child has at school the first step is to talk to their teacher, or to the **Special Educational Needs Coordinator** or the head teacher.

If your child has an **Education, Health and Care plan** you can also contact your local SEN team – see **Kent County Council's** website page

www.kent.gov.uk/education-and-children/special-educational-needs/support-and-advice

We can help you prepare for and attend a meeting.

If you still have concerns we can give you impartial information and advice about possible ways forward.

What next?

You may want to:

- seek some help to put your concerns forward
- make a complaint
- ask for independent disagreement resolution or mediation
- appeal against a decision.

Seeking help

It might be helpful to ask a friend or relative to attend a meeting with you.

We might also be able to offer you independent support, or tell you about local or national groups that provide information and advice.

Making a complaint

All schools and colleges and **Kent County Council** have a complaints procedure. They will send you a form if you ask for it. You will usually need to:

- have tried to resolve your complaint by speaking to the right people
- put your complaint in writing, using the word 'complaint'
- be clear about all the issues you want resolved
- state what you want to happen
- give a reasonable time by which you would like a response.

You can find out more about complaints procedures in the **SEND Code of Practice**** sections 11.2 and 11.67 to 11.111. If you want help to understand the different procedures, or advice on which to use, please contact **IASK**.

If you are not happy with the outcome of making a complaint or feel that it has not been dealt with properly, we can give you information on what to do next.

Disagreement resolution

Most disagreements can be sorted out by talking with the school, college, local authority, or Clinical Commissioning Group.

The **SEND Code of Practice**** says:

Decisions about provision for children and young people with SEN should be made as soon as possible. In most cases this will be achieved by early years providers, schools, colleges, local authorities and clinical commissioning groups (CCGs) working closely together and agreeing what should be provided with parents and young people.

(11.3)

Sometimes it can be difficult to reach agreement.

Local authorities must make disagreement resolution services available to parents and young people. Use of the disagreement resolution services is voluntary and has to be with the agreement of all parties. The service, while commissioned by it, must be independent of the local authority – no-one who is directly employed by a local authority can provide disagreement resolution services.

(11.6)

In Kent, **[Global Mediation](http://www.globalmediation.co.uk/our-services/education/special-education-needs)** www.globalmediation.co.uk/our-services/education/special-education-needs is the independent service commissioned to provide a trained mediator to facilitate a discussion. The purpose is to look for a way forward that all the parties accept. The service is free and confidential - and you can choose whether to use it.

The disagreement resolution service is there to help resolve disagreements between parents or young people and the organisations that are responsible for making provision for children and young people with special educational needs. These are about:

- how early years providers, schools and further education institutions carry out their duties for children and young people with SEN. For local authorities this includes keeping education and care provision under review, assessing needs and drawing up Education, Health and Care plans. For governing bodies and proprietors of schools it includes using their “best endeavours” to meet children and young people’s SEN.
- the special educational provision made for a child or young person by early years providers, schools or further education institutions, including children and young people receiving **SEN support** and those with EHC plans.
- **health or social care provision** when this is part of an **EHC needs assessment** (see our leaflet **[Education, Health and Care Needs Assessment](#)**), while EHC plans are being drawn up, reviewed or when children or young people are being reassessed.

Disagreement resolution services can also be used:

- during EHC needs assessment process
- while EHC plans are drawn up
- while waiting for Tribunal appeals
- at review
- during reassessments.

We can help you decide if independent disagreement resolution is the right way forward for you or, whether you would like to access informal support in resolving disagreements through **IASK**.

You can find out more about disagreement resolution services in the **SEND Code of Practice**** sections 11.6 to 11.10.

Mediation

Mediation is also a type of disagreement resolution. The service is free and confidential. Mediators must be trained and accredited and are independent of the local authority and Clinical Commissioning Group.

There are two routes to mediation either for matters which can be appealed to the Tribunal or with regard to the health and social care elements of EHC Plans.

The **SEND Code of Practice**** says:

Mediation can take place following decisions by a local authority not to carry out an EHC needs assessment, not to draw up an EHC plan, after they receive a final EHC plan or amended plan, following a decision not to amend an EHC plan or a decision to cease to maintain an EHC plan. (11.13)

If you are not happy with the outcome of the local authority's decisions you have the right to appeal to Tribunal.

If you wish to register an appeal with the **First Tier Tribunal (SEN and disability)** you first have to consider mediation. This is called **mediation advice**. Once you have had the mediation advice you can decide whether you want to go to mediation.

You do not need to seek mediation advice first if the appeal is only about the name of the school, or college, named on the plan, the type of provision specified in the plan or the fact that no school or other institution is named (Part I of the EHC plan).

If you choose mediation, the local authority (or Clinical Commissioning Group) must take part. The meeting will be arranged within 30 days.

An independent mediator runs the meeting. When the meeting has finished the mediator issues you with a certificate within 3 working days. You need this certificate to register an appeal to the First Tier Tribunal.

If you decide not to go to mediation the mediation adviser will issue you with a certificate within 3 working days. You will need this certificate to register an appeal to the First Tier Tribunal.

Either **IASK** or **Global Mediation** can help you decide if mediation is the right way forward.

You can find out more about mediation in the **SEND Code of Practice**** sections 11.13 to 11.38.

Do I have to choose between making a complaint, using disagreement resolution and mediation?

Usually you can follow more than one route. For example you can still make a complaint if you have already tried disagreement resolution. We can explain your rights and the different procedures.

Appeals

The **SEND Code of Practice**** says that parents and young people can appeal to the Tribunal about:

- *a decision by a local authority not to carry out an EHC needs assessment or re-assessment*
- *a decision by a local authority that it is not necessary to issue an EHC plan following an assessment*
- *the description of a child or young person's SEN specified in an EHC plan, the special educational provision specified, the school or other institution or type of school or other institution (such as a mainstream school/college) specified in the plan or that no school or other institution is specified*
- *an amendment to these elements of the EHC plan*
- *a decision by a local authority not to amend an EHC plan following a review or re-assessment*
- *a decision by a local authority to cease to maintain an EHC plan*

(11.45)

You can find out more about appeals to the Tribunal in the **SEND Code of Practice**** sections 11.39 to 11.55.

We can explain the appeal process to you and provide impartial advice and support.

You can also appeal against a school exclusion. You can find out more about school exclusion appeals on **the Government website at www.gov.uk/school-discipline-exclusions/exclusions** or at the **ACE website www.ace-ed.org.uk** or see our leaflet **[A Guide to Exclusions](#)**.

Where can I get more information, advice or support?

You can find out more about making a complaint about provision at your child's school website, or by asking the school about their complaints procedure.

Chapter 11 of the **SEND Code of Practice**** includes a lot more information about complaints procedures, disagreement resolution, mediation advice and mediation.

We can give you:

- information about complaints procedures, disagreement resolution and mediation
- advice about what to do if you are unhappy with the support the school or college is providing
- details of other organisations, support groups and information services that might help
- information and advice about your rights to appeal to the First Tier Tribunal (SEN and Disability)
- impartial advice and support through the process of making a complaint, disagreement resolution, mediation or appeal.

National organisations that can also provide information and advice on **SEND** include:

Coram Children's Legal Centre at www.childrenslegalcentre.com

Contact a Family at www.cafamily.org.uk

IPSEA at www.ipsea.org.uk

* **KCC SEND Local Offer** link; www.kent.gov.uk/education-and-children/special-educational-needs

** **SEND Code of Practice** link:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/342440/SEND_Code_of_Practice_approved_by_Parliament_29.07.14.pdf

On request, this information can be provided in alternative formats.

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