

## Refusal to assess Appeal

Make a note of the date on the decision letter - You have **2 months** from the date on the decision letter or **1 month** from the date on the mediation certificate- Whichever is the later.

### Have the local authority offered you a way forward meeting?

It is always a good idea to continue talking to the local authority about your concerns or any questions you have and the local authority may have already offered to meet with you.

Ahead of any discussion with the local authority, you can ask your child's setting or any involved professional if there is any further information that could be provided to evidence that your child requires **additional** support in a setting or how a setting may use additional funding e.g. resources, tools, specialised equipment/therapies. You can read about how to plan & prepare for a Way Forward Meeting on: [What to do if the LA refuse to carry out an assessment](#)

### Arrange a date for a way forward meeting

It is important to fully understand why the local authority reached its decision and this information will also be key to building your case if you decide to go to appeal. It would be helpful if the setting or any involved professional could be involved so that they can share any further evidence of your child's additional need and respond to the reasons for refusing to carry out the assessment. Meeting with the local authority (SEND Operations Service) can be really useful for example, where you have some additional information or a new report you would like to share. It is possible that with new information the local authority may agree to reconsider their decision and may avoid an appeal. [SEND Operations Contact Details](#)

The LA considered the new info and agreed to reconsider their decision

**No appeal necessary.**

The LA considered the new info and decided **not** to reconsider their decision.

**Do you want to lodge an appeal?**

N

Y

#### Mediation certificate

If you decide to go straight to appeal then they will issue you with a mediation certificate confirming you have been told about your right to mediation but you do not want to do so. This certificate must be issued within 3 working . days of you telling them that you do not want to go to mediation. The Certificate will enable you to lodge your appeal, either **within two months of the original decision letter or within one month** of receiving the certificate, whichever is the later.

Contact [Global Mediation](#) - you must contact Global Mediation *before* your right of appeal expires) - mediation is a way to try to settle the dispute and involves meeting between the parent and the Local authority and an independent mediator to try to reach an agreement.

Global Mediation will offer you a mediation meeting but you don't have to go forward on the mediation meetings if you don't want to. Sometimes parents may already have had discussions with the Local authority via the Way Forward Meeting and feel that mediation may not be beneficial and want to save time and go straight to appeal.

**Do you want mediation meetings?**

N

Y

**Gather your mediation certificate and evidence**

The meetings are held in a neutral location and the aim is to ensure that everyone is heard and understood, to help reach a resolution. The mediator (who will have some knowledge of SEND legislation) should clarify your issues/nature of the disagreement & ensure all parties have an opportunity to discuss and ask questions.

**Agreement not reached**

**Agreement reached**

Gather evidence and complete the attached [SEND 35a form](#). When you have completed the appeal form and signed it, email it and all other relevant documents to [send@justice.gov.uk](mailto:send@justice.gov.uk) - write in the subject line of your email 'New Appeal' to ensure it is dealt with quickly. You can watch our videos on how to complete the [Refusal to Assess Appeal form](#)

If agreement is **not** reached, you can appeal to the SEND Tribunal (within two months of the original decision or one month from the mediation certificate whichever is the later).

**If agreement is reached.** LA will carry out an EHC needs **assessment**: within 2 weeks the LA must tell you that it is starting, then either let you know the LA has decided not to issue an EHC plan within 10 weeks, or send a finalised EHC plan within 14 weeks, of the mediation agreement.