



## SEND 35 APPEAL – REASONS FOR APPEAL

‘Section 3’ of the application form requires the specific reasons for making an application for a content appeal. You will need to explain your reasons for disagreeing with the LA decision.

You may need to provide a separate sheet and write ‘See separate sheet headed Reasons for Appeal’ in the box on the form – include a heading with child’s name, date of birth and appeal number.

Refer to supporting evidence where you can, for example:

- Your child/young person's views
- Progress reports
- One Planning/support plan/pupil passport/provision map
- Home/school diaries
- Assessment/specialist reports or meeting notes
- Suspension/Exclusion letters/reports
- Letters/emails from setting/local authority/health/specialist
- Examples of school or homework (can be helpful where rate of progress is in dispute)

Explain where to find the information in your supporting evidence for example ‘Page 5 of the Educational Psychologist’s report says...’

**I am bringing this appeal because:-**

This could be:

- The LA has failed to include some of the child’s learning difficulties, and this has an impact on Section F (which possibly lacks some provision);
- The LA has overestimated or underestimated the child’s difficulties, and this has an impact on the levels of provision needed to meet these needs;
- The LA or professionals misunderstood the child’s difficulties. For example, where there is a difference in opinion or over-emphasis of one learning difficulty over another;
- Amendments need to be made to the EHC plan to include special educational needs and/or special educational provision as recommended by professionals.
- The placement is unsuitable to meet my child’s needs because...(for example, give clear reasons based on your child’s SEN profile, professionals advice and the type and kind of provision or support that would enable your child to meet outcomes and make progress).

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

You are asked to explain the reasons for disagreeing with the description of your child's difficulties.

You may want to appeal section B if it:

- does not include some of your child or young person's learning difficulties or disabilities, and this means section F is missing some provision
- is not reflective of your child's special educational needs and impacts on levels or type of provision and/or which setting has been named
- is a misunderstanding of your child or young person's learning difficulties, for example where there is a difference of opinion over a diagnosis, or overemphasises one learning difficulty over another.

Use professionals' reports and letters to extract the identified needs. What amendments do you want to be made within Section B? Include the amendments of needs here.

It can be helpful to highlight each identified need and each suggested provision within every report you have.

Do the same within the EHC plan to see if all the relevant information from the reports has been included in the plan.

You can use headers to keep you on track and make it easier for the tribunal to see your issues.

We advise to use the '**Broad areas of Need**' in the SEND Code of Practice as a framework to explain your child's difficulties.

Additionally, you may want to discuss personal independent needs, too, especially if you are representing a young person.

Young people should have clear preparing for adulthood areas covered in their EHCP.

The SEND Code of Practice explains this as:

### **Broad areas of need**

#### **Communication and interaction**

6.28 Children and young people with speech, language and communication needs (SLCN) have difficulty in communicating with others.

#### **Cognition and learning**

6.30 Support for learning difficulties may be required when children and young people learn at a slower pace than their peers, even with appropriate differentiation...

## Social, emotional and mental health difficulties

6.32 Children and young people may experience a wide range of social and emotional difficulties which manifest themselves in many ways...

## Sensory and/or physical need

6.34 Some children and young people require special educational provision because they have a disability which prevents or hinders them from making use of the educational facilities generally provided. These difficulties can be age related and may fluctuate over time

The appeal forms do not have to specify every single amendment you want to include in section B, but you will need to explain **why** you want changes to be made.

## I disagree with the specification of special educational provision (Section F of the EHCP) because:

Section F of an EHC plan must specify all of the special educational provision called for by your child or young person's SEN.

You need to explain why you disagree with the LA description of your child's provision (SEP). Reasons for this could be that the SEP is non-specific, and/or lacks appropriate and identified support in Section F.

If section F is vague or does not contain all the provision your child requires it will be harder for you to enforce section F and there is a risk your child or young person will not receive all of their support.

You may want to appeal provision if:-

- Section F does not include provision for each and every special educational need detailed in Section B.
- Section F does not contain health or social care provision which **educates or trains** your child or young person (for example, speech and language therapy) You will need to check **Sections G and H** to see if there is any provision in your child's EHCP which has been identified as health care provision or social care provision (Section 21(5) of the Children & Families Act) which should be treated as special educational provision. This means anything that 'educates or trains' should be in the educational sections of an EHCP (these are sections B and F).
- Section F is not specific. It should be clear what support is to be provided, who is going to provide it, where it is going to be provided; for how long; and for how often
- Section F includes woolly and meaningless wording, such as 'access to', 'regular' or 'opportunities for' and other similar expressions, which do not make it clear exactly what should be provided for your child or young person.

## The LA have not considered

Some examples to consider in this section:

- Not able to access the curriculum and therefore not making any academic progress
- Self-aware that they are not accessing work at the same level as their peers and this is affecting their self esteem/
- isolated within current placement without appropriate peer group
- Current placement is academically and environmentally too demanding
- Current schools views – i.e cannot meet needs
- Current placement is detrimental to mental health
- Mainstream do not have clear understanding of c/yp needs and how to support them
- Environmental factors e.g. no sensory room, no appropriate outdoor space, no therapy in school, no quiet space
- The EHCP provision will not be able to be delivered in a mainstream school.
- That all professionals feel a special school is appropriate.
- Child/YP has not had their needs and provision fully identified for example OT or EP assessments not undertaken
- The EHCP needs amending before consultations are sent as the EHCP does not reflect the child/yp needs
- Mainstream is not appropriate and cannot meet needs
- YP has missed a large amount of school as unable to access due to high levels of anxiety or cannot access a large, busy and noisy environment

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

You might want to appeal section I if it:

- names a setting you do not agree with
- names a type of setting you do not agree with e.g mainstream
- names a type of setting which you may agree with but section I does not say which setting will be attended, and there is a setting you want to be named, or
- names a setting or type and you do not think any setting or type should be named.

Consider the reasons the local authority refused to name your preferred school and explain why you disagree with them List your concerns as to why this school will not be suitable for your child.

Section B and Section F describes your child's identified needs and the provision to meet each of those needs. The school or type of setting named in Section I will be the setting identified as the 'most suitable' to meet the needs and provision as set out in Section B and F.

This will also be the case if you would like your child or young person to be **educated other than in a school under Section 61 of the Children & Families Act**. You will want to make sure that Section B and F contain the necessary details to support your argument as to why it will be inappropriate for your child's special educational needs to be delivered in a school.

Point to supporting evidence where you can, for example:

- What the EHC plan says (or you would like it to say) your child's needs and provision are
- Your child or young person's views
- The range and nature of the needs of other children in the school/year/class
- The curriculum followed, qualifications offered and progression/outcomes
- Progress reports (IEP/pupil passport/provision map/behaviour or exclusion record)
- Assessment/specialist reports showing the areas of difficulty, levels and rate of progress, any concerns over mental health and wellbeing

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

The LA can refuse your request for your choice of school on the three points below. To evidence your preferred choice of school you should consider the following:

**Your preference of school is unsuitable for the age, ability aptitude or SEN of the child or young person**

- You will need to evidence that the school you are requesting is suitable, ie. can meet the needs of your child, and that the school or type of school named by the local authority is unsuitable.
- Gather evidence about the type of children that are admitted by the school and check the Ofsted reports and prospectus of the school you want.
- If necessary, consider seeking evidence from elsewhere to evidence your child's suitability for your preference of school.

**Your preference of school is Incompatible with the efficient use of resources (Costs)**

- Explain what you have done to find out about costs, including transport
- Where the cost of your preferred school is greater, include any evidence about any cost savings (such as health therapies that would not be needed) if they were to attend your chosen setting

**Your preference of school is Incompatible with the efficient education of others**

- Include the response from the setting and why you disagree
- Explain how you believe the school/setting could accommodate one more child/young person
- Include details of school or class numbers and in previous years if they have gone over their numbers

**If you are appealing for an Independent setting, you will need a written offer of a place ahead of the hearing, as the judge will need to see they are prepared to admit your child before making an order.**

The Tribunal will need confirmation that you have contacted the school or setting about admitting your child, and their response. For Independent settings the most important point to prove is not that the independent setting is better than the LA's proposed school, but that the setting offered by the LA cannot meet the child or young person's needs.

### **Enhanced Provision**

If you are requesting an **enhanced provision**, your appeal would be for **mainstream** as these resource bases are mainstream - and not specialist settings. The law only allows specific types of settings to be named in section I of a plan. In this circumstance you would be asking the Tribunal to name the school (to which the Unit it attached to) in section I of the plan, in addition to specifying the Unit.

Be clear in your appeal that you are seeking the Enhanced Provision and what it is that the provision offers which meets your child's needs.

Information Links:-

[Appealing a school Placement](#)

[Education Other than in School \(EOTAS\)](#)