

Information Advice & Support

Guides for Parents and Carers
in North Lincolnshire

9. What if I do not agree with
decisions about SEN provision?



North Lincolnshire

Formerly North Lincolnshire Parent Partnership

**SEN & Disability
Information
Advice &
Support
Service**

**Information,
Advice & Support
Services Network
for SEND**



www.northlincs.gov.uk

Introduction

This is one of a series of information resources for parents and carers in North Lincolnshire. They are intended to offer an introduction to parts of the Special Educational Needs and Disability (SEND) Code of Practice and to complement the Department for Education (DfE) Parents' Guide.

Each booklet is available on the Local Offer website (www.northlincslocaloffer.com/SENDIASS) and will also be available on the forthcoming Special Educational Needs and Disability Information, Advice and Support Service (SENDIASS) website.

All titles in the series contain hyperlinks to other relevant information and look-ups to words explained in the online glossary. Throughout the booklets:

- words included in the glossary are marked in **bold**
- quotes are referenced and presented in *italics*.
- hyperlinks are underlined.

Additional references to other sources of information, advice and support are included at the back of the booklet.

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.

SENDIASS can:

- listen to your concerns
- help you sort out the issues
- identify other people who can 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 headteacher.

If you think the school is doing all it can but your child needs even more help, you can ask the local authority for an EHC needs assessment.

If your child has an Education, Health and Care plan you can also contact the Special Educational Needs Team of the Council.

SENDIASS can help you prepare for and attend a meeting. If you still have concerns we can help you decide what to do next.

What next?

If you still have a problem you might be able to:

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

SENDIASS can tell you more about each of these and help you decide what to do.

Seeking help

It might be helpful to ask a friend or relative to attend a meeting with you. It is a good idea to keep notes or have records of what the school has done and has told you.

SENDIASS can give you impartial information and advice about possible ways forward.

Making a complaint

If you think that the school, college or Local Authority could do more, you can complain using their 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.

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

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 SENDIASS.

Disagreement resolution

Many disagreements can be sorted out by talking with the school, college, local authority, or, for health services, the 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. SENDIASS can help you by providing impartial information, advice and support.

The SEND Code of Practice says:

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 North Lincolnshire disagreement resolution is provided by Community Accord. Community Accord is an independent service that will 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 three kinds of 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. This includes children and young people receiving SEN support and those with EHC plans.
- health or social care provision when this part of an EHC 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 assessments
- while EHC plans are drawn up

- while waiting for Tribunal appeals
- at review
- during reassessments.

SENDIASS or Community Accord can help you decide if independent disagreement resolution is the right way forward.

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

Mediation

Mediation is a type of disagreement resolution for disagreements that can be appealed to the Special Educational Needs and Disability Tribunal. The service is free and confidential.

The SEND Code of Practice says:

If parents and young people want it to, 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 wish to register an appeal with the First Tier Tribunal (SEN and disability) you first have to consider whether to enter mediation and obtain a certificate saying you have considered it. This is called mediation advice. If you decide not to go into mediation and tell the mediation adviser, they will send you a certificate within 3 working days and you can then register your appeal. You do not have to go into mediation if you do not want to – you only have to consider whether to or not.

Your local authority must tell you about mediation and who to

contact for the initial advice when they send you their decision. You must contact the mediation adviser within two months of getting the decision. Your time limit for appealing to the Tribunal is two months from the date of that decision, or one month from the date of the mediation certificate, whichever is the later.

There is one exception to this rule. You can register an appeal without considering mediation first if the appeal is only about the name of the school, or college, named on the plan, the type of school or college specified in the plan or the fact that no school or other institution is named.

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 if you still want to register an appeal with the First Tier Tribunal. Your time limit for appealing to the Tribunal is two months from the date of the decision you disagree with, or one month from the date of the mediation certificate, whichever is the later.

Mediators must be trained and accredited and are independent of the local authority and Clinical Commissioning Group.

If you go over the two month deadline for considering mediation, or want to appeal without a certificate, the law says you can still approach the Tribunal to see if you can register your appeal.

SENDIASS or [Community Accord](#) 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, appealing to the Tribunal 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. SENDIASS 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.

SENDIASS 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 from SENDIASS or from:

- **Advisory Centre for Education (ACE):** www.ace-ed.org.uk
- **Independent Parental Special Education Advice (IPSEA):** www.ipsea.org.uk/what-you-need-to-know/exclusion-from-school

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 on its website or by asking about its complaints procedure. Next steps are outlined here: <https://www.gov.uk/complain-about-school>

The Local Offer, published by the local authority, includes information about the arrangements for resolving disagreements and for mediation as well as details about the Council's complaints policy and procedure. It also tells you about your right to appeal to the Tribunal. You can find the Local Offer at: www.northlincslocaloffer.com

The Local Offer also includes contact details you might find useful such as that for:

Special Educational Needs Team

Telephone: 01724 297148

Email: special.needssection@northlincs.gov.uk

Community Accord

Telephone: 01274 223313

Email: info@communityaccord.com

Web: www.communityaccord.com

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

SENDIASS 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 complaints and appeals include:

Contact a Family

SEN National Advice Service Helpline: 0808 808 3555
www.cafamily.org.uk

Coram Children's Legal Centre

Education Law Advice Lines: 0845 345 4345 or 0300 330 5485
www.childrenslegalcentre.com or www.childlawadvice.org.uk

Independent Parental Special Education Advice (IPSEA)

General Advice Line: 0800 018 4016
Tribunal Helpline: 0845 6029579
www.ipsea.org.uk

Local Government Ombudsman (LGO)

<http://www.lgo.org.uk/make-a-complaint/fact-sheets/education/special-educational-needs>

Special Educational Needs & Disability

For further information:

SENDIASS

Hewson House, Brigg
North Lincolnshire, DN20 8XJ

Telephone: **01724 277665**
Email: help@nlsendiass.org.uk
Web: www.northlincslocaloffer.com/SENDIASS



No English?

For information please call:

08000 193530 (Arabic) للحصول على المزيد من المعلومات اتصل بـ: 08000 193530

তথ্যগুলি বাংলায় জানতে হলে এই নম্বরে ফোন করুন: 08000 193531 (Bengali)

欲知粵語版的資訊，請致電: 08000 193532 (Cantonese)

हिन्दी में जानकारी के लिये 08000 193533 पर फोन करें (Hindi)

بۆ زانیاری به کوردی سۆرانی تەلهفۆن بۆ ژماره 08000 193537 بکە. (Kurdish Sorani)

Para mais informação em português contacte-nos através do telefone 08000 193538 (Portuguese)

ਪੰਜਾਬੀ ਵਿਚ ਸਾਹੁਵਾਦੀ ਲਈ 08000 193539 'ਤੇ ਫੋਨ ਕਰੋ (Punjabi)

“Warbixinta oo af Soomaali ah wac 08000 193540” (Somali)

08000 193541 اردو میں انفارمیشن کے لیے اس ٹیلیفون نمبر پر رابطہ فرمائیں۔ (Urdu)

Nie mówisz po angielsku? Po informacji zadzwoń pod numer 08000 195587 (Polish)

Не знаете английский? Для информации звоните 08000 195586 (Russian)

For information in alternative formats or to request a signer or interpreter to speak to us please contact **01724 296629**