



SEND AND YOU
SENDIAS
FOR YOUNG PEOPLE

SAY 0-25 Toolkit

Part 4 – Making & Challenging Decisions Post 16

Disagreeing with decisions

If you feel unhappy with a decision that has been made about your education we can help you to say how you feel and help you find a solution.

Disagreeing with a decision about an EHC plan.

When a local authority makes a decision about your EHC plan they must write to you and explain your right to challenge this decision at [tribunal](#). You have two months from the date of this letter to put in an appeal (or 1 month after getting a mediation certificate – whichever is later).

You can appeal about any decisions made in parts B (needs) F (provision) or I (placement) of your plan.

Before you appeal you must consider mediation. Mediation is a less formal way of working out a solution to your problem. More information about mediation is available [here](#) or through [Global Mediation](#)

If you appeal an education decision you may also be able to discuss health and social care issues at tribunal during the National Trial until April 2020. <https://councilfordisabledchildren.org.uk/help-resources/resources/send-national-trial-single-route-redress-latest>

Anyone aged 16 or over will make this appeal as a [young person](#). A parent or carer can help you with this appeal (as a representative) or [appeal on your behalf](#).

Disagreeing with a decision about social care.

You can discuss any concerns about a social care decision on your EHC plan at mediation.

If you are not happy with your social care you can make a complaint through the local authority's complaints procedure. If you are over 18 and need support making a complaint, each local authority should provide an adult 'social care complaints advocacy' service.

In Bristol this service is provided by [The Care Forum](#).

In North Somerset it is provided by [SEAP](#)

In South Gloucestershire it is provided by [SWAN](#)

If you appeal an education decision on your EHC plan you may also be able to discuss social care issues at tribunal during the National Trial until April 2020. The judges may recommend that social care make changes to what is written on your plan or assess you to see what support you need.

Disagreeing with a decision about your health

If you disagree with a decision about your health on your plan, you can discuss this at mediation.

You can also contact:

- The Patient Advice and Liaison Service [PALS](#)
- or [Health Watch](#)

If you appeal an education decision on your EHC plan you may also be able to discuss health issues at tribunal during the National Trial until April 2020. The judges may recommend that health make changes to what is written on your plan or assess you to see what support you need.

Making decisions and mental capacity?

Everyone has a right to make their own decisions. Having mental capacity means you are able to make decisions for yourself. It should be presumed that you have mental capacity unless proved otherwise.

[The Mental Capacity Act 2005](#) says that a person is unable to make their own decision if they cannot do one or more of the following four things:

- understand information given to them
- retain that information long enough to be able to make the decision
- weigh up the information available to make the decision

- communicate their decision – this could be by talking, using sign language or even simple muscle movements such as blinking an eye or squeezing a hand

Every effort should be made to help you make your own decisions. Any decisions made for you must be in your [best interests](#). Mental capacity should be judged each time you need to make a decision – just because you find one decision difficult doesn't mean you find all decisions difficult.

Parents or carers can make decisions on your behalf as long as you have given consent (you have said it is ok).

Advocacy

If you are over 18, find it difficult to have a say in your care and you do not have anyone who can help you, local authorities have a duty under the [Care Act 2014](#) to provide [independent advocacy](#). This means someone who is not controlled by the council who can help you understand your choices and help you get what you need. Contact your local authority to find out more.

Any Questions?

Please contact us if you are still unclear or have any questions about any information in this document, or about any other aspect of Special Educational Needs & Disabilities:

- call our Information, Advice & Support line: **0117 989 7725**
- email us: support@sendandyou.org.uk
- contact us via our website: www.sendandyou.org.uk/contact-us

If you are 16 or over and would like a parent or carer to contact us on your behalf, you will need to complete a consent form. Your parent/carer can ask us for one or you can download one from our website.

Expanded links used in this document:

- tribunal:
<https://www.gov.uk/appeal-ehc-plan-decision>
- mediation:
<https://www.gov.uk/appeal-ehc-plan-decision/before-you-appeal>

- global mediation:
www.globalmediation.co.uk
- young person:
<https://www.gov.uk/appeal-ehc-plan-decision/appeal-as-a-young-person>
- appeal on your behalf:
<https://www.gov.uk/appeal-ehc-plan-decision/appeal-as-a-parent>
- The Care Forum:
www.thecareforum.org/advocacy
- The Patient Advice and Liaison Service (PALS):
<https://www.bristolccg.nhs.uk/contact/patient-advice-and-liaison-service-pals/>
- Health Watch:
<http://www.healthwatch.co.uk/>
- The Mental Capacity Act 2005:
<http://www.legislation.gov.uk/ukpga/2005/9/contents>
- Best Interests:
<https://www.scie.org.uk/mca/introduction/mental-capacity-act-2005-at-a-glance>
- Care Act 2014:
<http://www.legislation.gov.uk/ukpga/2014/23/part/1/crossheading/independent-advocacy-support/enacted>
- Independent advocacy:
<https://www.scie.org.uk/care-act-2014/advocacy-services/commissioning-independent-advocacy/easy-read/commissioning-independent-advocacy-easy-read.pdf>
- Bristol:
<https://www.bristol.gov.uk/social-care-health/advocacy-someone-to-speak-on-your-behalf>
- North Somerset:
<https://www.n-somerset.gov.uk/my-services/socialcare/adults/making-decisions-about-care/advocacy/>

- South Gloucestershire:
<http://www.southglos.gov.uk/health-and-social-care/care-and-support-children-families/local-offer/local-offer-information-advice-support/advocacy/advocacy-2/>

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Disclaimer: SEND and You has made all reasonable efforts to ensure that the information contained in this leaflet is accurate and up to date at the time of publication. It does not constitute legal advice and SEND and You cannot accept any responsibility for any loss or damage suffered as a consequence of any reliance placed upon it.