

**Decision letter checklist and summary wording for local authorities**

The following checklist is designed as a guide to support local authorities to amend or create the necessary decision letters in a compliant manner in line with their statutory duties under the Children and Families Act 2014 and the SEND single route of redress national trial. It outlines the key requirements and information that should be included in decision letters. It has been taken from the [*Special Educational Needs and Disability Regulations 2014*](http://www.legislation.gov.uk/uksi/2014/1530/contents/made) and the [*Special Educational Needs and Disability (First-tier Tribunal Recommendations Power) Regulations 2017*](http://www.legislation.gov.uk/uksi/2017/1306/contents/made).

*Please use the checklist as a basis for creating new decision letter templates or to update existing ones. There is sample summary wording for 5. below (the Tribunal’s power to make recommendations) which you may wish to use or amend. Please ensure that all documents are quality assured and checked for accuracy within your local authority before issuing.*

# SEND Decision Letters to Parents and Young People – Checklist of Information Required

**When:**

* notifying a parent/young person of a decision not to issue an EHC plan
* sending a final version of an EHC plan to a parent/young person
* sending an amended version of an EHC plan to a parent/young person
* notifying a parent/young person of a decision not to carry out a re-assessment where an EHC plan already exists
* notifying a parent/young person of a decision not to amend an EHC plan following a review or re-assessment
* notifying a parent/young person of a decision to cease to maintain an EHC plan

**The decision letter from the local authority must include notification of:**

1. their right to appeal that decision;
2. the time limits for doing so;
3. the information concerning mediation, set out below;
4. the availability of—
   1. disagreement resolution services; and
   2. information and advice about matters relating to the special educational needs of children and young people (including local Information, Advice and Support Services).
5. **the First-tier Tribunal’s power to make recommendations under the Special Educational Needs and Disability (First-tier Tribunal Recommendations Power) Regulations 2017.**

# Information about mediation in 3. above

The information to be included in notices sent by a local authority is:

1. the right of the child’s parent or young person to request mediation under section 53 (health care issues) or 54 (educational or social care issues) of the Act;
2. the requirement to obtain a mediation certificate in accordance with section 55(4) (they do not wish to pursue mediation) or (5) (they have participated in mediation) before any appeal can be made to the First-tier Tribunal;
3. contact details for the mediation adviser that the child’s parent or young person should contact to obtain that certificate;
4. the timescales for requesting mediation;
5. the requirement to inform the local authority—
   1. if the parent or young person wishes to pursue mediation,
   2. the mediation issues, and
   3. where the mediation issues are or include the fact that no health care provision, or no health care provision of a particular kind, is specified in the EHC plan, the health care provision that the child’s parent or young person wishes to be specified in the EHC plan;
6. contact details for any person acting on behalf of the local authority whom the child’s parent or young person should contact if they wish to pursue mediation.

# Sample wording on the Tribunal’s extended powers

The Government are extending the powers of the First-tier Tribunal (SEND), sometimes referred to as the ‘SEND Tribunal’, to make non-binding recommendations about the health and social care aspects of Education, Health and Care (EHC) plans as part of a national trial. The trial will apply to decisions made or EHC plans issued/amended from 3 April 2018 and will run until August 2021, when a decision will be made on its continuation.

To date, you have only been able to appeal the educational aspects of EHC plans. The trial gives you new rights to request recommendations about the health and social care needs and provision specified in EHC plans, in addition to the educational aspects, when making a SEND appeal. This gives you the opportunity to raise all your concerns about an EHC plan in one place.

It is only possible for the Tribunal to consider the health and/or social care aspects of the EHC plan where you are already making an appeal in relation to the education aspects of the EHC plan and the education aspect must remain live throughout the appeal.

You can ask the Tribunal to make non-binding recommendations on health and/or social care aspects of EHC plans **as** **part of an appeal** relating to:

* a decision by the local authority not to issue an EHC plan
* a decision by the local authority not to carry out a re-assessment for a child/young

person who has an EHC plan

* a decision by the local authority not to amend an EHC plan following a review or

re-assessment

* a decision by the local authority to cease to maintain an EHC plan
* the description of the child/young person’s special educational needs in an EHC

plan

* the special educational provision specified in an EHC plan
* the school or other educational institution named in an EHC plan

If you wish to appeal against a local authority decision on any of the grounds above and want to request that the Tribunal considers your concerns about the health and /or social care aspects of the EHC plan, you should **follow the** **normal process for bringing an appeal to the Tribunal and tick the box on the form relating to a health and/or social care appeal**. Advice on making SEND appeals to the Tribunal is available from the [GOV.UK website](https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability).

There will be an independent evaluation of the trial to inform a decision on whether the new tribunal recommendation powers should be continued after the trial. It is important that the evaluation is based on robust evidence, and the evaluators are therefore strongly encouraging participation from parents and young people through telephone or online interviews. Parents and young people that take part in the trial will receive a letter from the Tribunal explaining more about the evaluation and how their personal data will be stored confidentially and how it will be protected.