SEND Tribunal: Extended Appeals

*Key elements of the SEND Tribunal: Extended Appeals*

On 20 July 2021 the Department for Education confirmed it will be continuing the extended powers given to the SEND Tribunal since April 2018 to hear appeals and make non-binding recommendations about health and social care aspects of EHC plans, provided those appeals also include education elements. These powers were tested under a National Trial. As arrangements that have been in place since April 2018 are continuing, with no new requirements introduced, LAs, health commissioning bodies and parents and young people should follow the same procedure for the Tribunal as done currently.

Before the national trial, parents and young people were only able to appeal the educational aspects of EHC plans. The extended powers gave parents and young people the right to appeal about health and social care issues relating to SEN decisions or contents of a EHC plan via a single route.

The national trial ended 31 August 2021. From 1 September 2021, the extended powers will continue and the Tribunal appeals which include health or social care aspects, will now be known as ‘extended appeals’.

Although the recommendations are non-binding, they are made by a specialist Tribunal and should not be ignored or rejected without careful consideration. Any reasons for not following them must be set out in detail in writing and sent to the parent/young person. Parents and young people will be able to complain to the Ombudsman or seek to have the decision judicially reviewed.

# Roles and Responsibilities

**SEND Tribunal will have powers to:** Recommend that health and social care needs and provision are specified or amended in EHC plans. The Tribunal must send a copy of the recommendation to health commissioners as well as the LA.

**Health and social care commissioners must:** Respond to any request for information and evidence within the timeframe set by the Tribunal; send a witness the health and/or social care bodies to the hearing if required; and respond to the parent/young person and the LA within 5 weeks of a recommendation being made setting out the steps they have decided to take or giving reasons why they are not going to follow the recommendation.

**LA SEND teams must:** Notify parents and young people of the Tribunal’s power to make non-binding recommendations on the health and social care needs or provision specified in EHC plans; inform parents/young people of their rights through decision letters and the Local Offer; provide evidence to the Tribunal from the health and social care bodies in response to any issues raised within the timeframe set by the Tribunal and seek permission to bring additional witnesses to the hearing as necessary.

**Information, Advice and Support Services should:** Disseminate information on the SEND Tribunal: extended appeal; communicate the rights to parents and young people; provide support to parents and young people with managing appeals, which can include support with preparing cases and attendance at hearings; and signpost to further support.

# Support package for local areas

The resources referred to below can all be found in the [toolkit.](https://www.sendpathfinder.co.uk/single-route-of-redress)

1. **Guidance –** Guidance has been produced for SEND, health and social care professionals, parents and young people outlining the duties, how the trial will work and the support available.

2. **Toolkit –** To help with implementation, a toolkit has been produced with templates for Local Offer and decision letter wording, expense forms, further guidance and a FAQ document.

3. **Ongoing support –** Ongoing support will be provided through the DfE SEND regional adviser team and NHS England.

4. **Funding** – LAs and CCGs will be reimbursed for reasonable costs incurred in taking part in the national trial up to the total value of £4,000 per case if the appeal was registered before 31 August 2021. Further information is available [online](https://www.sendpathfinder.co.uk/expenses).