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## Contents Appeal

If you are unhappy with the contents of your or your child's EHC Plan you can appeal Sections B (Needs) and F (Provision).

These Sections should contain information and advice from Professionals, including - but not exclusive to

- Education Psychologist
- Speech & Language
- Occupational Therapy
- School/College
- Paediatrician
- Specialist Teacher

Section I is frequently appealed at the same time as Contents, as the decision as to where the most suitable School or other Education provider will be, is based upon the information available within these sections of the EHC Plan.

### Once your appeal is registered

The email or letter you receive from Tribunal after lodging an appeal, will include a Parental Registration Letter (sometimes called a Registration Parent Letter) which includes your key dates. Please read this letter carefully as it contains important information. This means that Tribunal have registered your appeal. The subject line will be:

"HD (date) – then your appeal number this will start with EH344/23/xxxxx) - new registration (child/YP's name)".

### Moving forward

From now on any further documents and emails you send to Tribunal [send@justice.gov.uk](mailto:send@justice.gov.uk) must be sent to the LA [send.appeals@surreycc.gov.uk](mailto:send.appeals@surreycc.gov.uk) using the subject format below:

For example; 'HD 11/11/2023 | EH 936/23/00567 | Ruby Tuesday | New Evidence'.

This is broken down in to the following format:

Current hearing date, for example "HD 11/11/2023"

Appeal number which will start EH936/23/

Child's/young persons full name

Subject, for example EVIDENCE or SEND 7.



## New parental registration letter

It is important to read this letter in full.

This is a letter about the appeal and as it states the Local Authority (LA) will now be aware that you are appealing but it could take up to 20 days before Wirral are actually aware that you have appealed.

Your EHCP Coordinator will direct you to the Tribunal Legal Team from now on (as they are in different teams).

Your appeal number is included in the letter at the top right, in bold. This is the number you must use from now on in all correspondence to the LA and SENDIST but this is explained under Case Directions.

The letter states that the final hearing date is subject to confirmation by the Tribunal about 10 days before the hearing. This is when you should receive a letter to explain how you log onto the virtual Hearing called Notice of Hearing (NOH).

They do make every attempt to ensure that the appeal is heard on your Hearing date but things do change. Your case will be 'case managed' about three weeks before the hearing to ensure it is ready to be heard.

The letter also mentions [paper hearings](#). If you would prefer a paper hearing where the Tribunal panels make a decision on the evidence you and the LA submit, both parties must consent to a paper hearing. You would complete a [Request for Changes form](#) (RFC form/SEND 7). It will be treated as an exceptional request and may lead to your appeal being concluded on an earlier date but remember that you won't be attending the Hearing.

The next page after the letter are the Case Directions.

## Case Directions

It is important to read the Case Directions.

The Case Directions include a table of useful dates at the end called key dates. The directions set out the timetable for further action to be taken by you and the LA before the appeal hearing.

Final hearing date is at the top of the Case Directions as well as the last date of the Key Dates table.

From now on any further documents and emails you send to Tribunal [send@justice.gov.uk](mailto:send@justice.gov.uk) **must** be sent to the LA [sendtribunal@wirral.gov.uk](mailto:sendtribunal@wirral.gov.uk) using the subject format below (it does not mean that every email to the LA goes to SENDIST too):

For example; 'HD 11/11/2023 | EH 936/23/00567 | Ellie Smith | New Evidence'.

This is broken down in to the following format:

1. Current hearing date, for example "HD 11/11/2023"
2. Appeal number which will start EH936/23/
3. Child's/young persons full name
4. Subject, for example EVIDENCE or SEND 7.

There should be a blank [Case Review Form](#), guidance on the [Working Document](#) and the [Bundle](#).

The Case Directions then goes on to outline what to do at different stages, detail of what is needed and detail of what you will need to provide as the parent - they are numbered 1 to 10. These are linked to the Key Dates table.

### Can't attend a virtual hearing

#### All Hearings are now virtual.

If you need a face to face hearing for any reason, then you must request this and explain why, on a [SEND 7/Request for Change form](#) (sending it to the LA first).

If a face to face hearing is agreed then you won't get the location and time of the hearing until a few weeks before the date of the hearing (we have known it to be a week before). The hearing will not be more than 2 hours away.

If you do not have the means to join a virtual hearing, you can request to go to a Court House and join the virtual hearing from there. You can request this in the same way.

### Keys dates within the tribunal registration letter

These key dates are really important.

The parents registration letter contains all the information and dates you need leading up to your final hearing, please note that these are not in order.

There is a Key Dates box at the end of the letter that summarises the dates and times, for example when documents are due in. It is important to make a note of them all.

Note the time stated in each box:

Action and party required to respond	Date for compliance
The LA must send its response to the parent(s), young person or alternative person and the Tribunal so that it is received by:	<b>12 noon on the 21/06/2023</b>
The parent(s), young person or alternative person and LA must send to each other and to the Tribunal any final evidence - such as further written information, including professional reports - upon which they intend to rely as soon as it is available. No further evidence will be accepted without express permission of the Tribunal from either party after:	<b>12 noon on the 16/08/2023</b>
The LA and the parent(s), young person or alternative person must send a completed Case Review Form to the Tribunal and each other to be received by:	<b>12 noon on the 31/08/2023</b>
The LA must produce and send to the Tribunal and the parent(s), young person or alternative person an electronic copy of the bundle and also deliver to parent(s) a paper copy of the bundle so that it is received by:	<b>12 noon on the 31/08/2023</b>
Final Hearing date	<b>12/03/2024</b>



## Key dates: an overview

### The Local Authority (LA) response to the Appeal

The LA must send its response to the parent(s), young person or alternative person and the Tribunal so that it is received by 12 noon on this date (please note that this will usually be 4-6 weeks after your appeal is registered)

- This LA response is called the [R1](#). The R1 must include your child or young person's views on the issues in the appeal or, if that is not possible, an explanation why they have not been obtained.
- The LA must also provide all the evidence listed in the Appendix at the end of the Letter. It is a long list depending on the type of appeal you have. You can highlight if these are missing after this date.
- If the appeal is about the contents of the EHCP (so the wording of the EHCP) then the LA must provide an electronic copy in Word by this deadline (this is called the [Working Document](#)).

### Final Evidence Deadline

You and LA must send to each other and to the Tribunal any final evidence - such as further written information, including professional reports - upon which you intend to rely as soon as it is available. No further evidence will be accepted without express permission of the Tribunal from either party after 12 noon on this date.

Late Evidence - any evidence after this date needs to be requested. The late evidence will only be considered at the final hearing and so will delay the start of the hearing or result in its being adjourned, as the Tribunal will require time to read the late evidence.

Remember - any emails should be sent with the information about the appeal (hearing date/appeal ref./name of child/YP) followed by 'Final Evidence' in the subject bar of the email.

### Completion of the Case Review Form (CRF)

You and the LA must send a completed Case Review Form to the Tribunal and each other to be received by 12 noon on this date.

A copy of this form will be in the original registration documents.

The Case Review Form is a list of the remaining issues that need to be decided by the Tribunal but you also need to include who your witnesses are.

You also need to include the latest Working Document if you have one (so if it is a contents appeal).

### Issuing the Final Tribunal Bundle

The LA must produce and send to the Tribunal and yourselves an electronic copy of the bundle and also deliver to you a paper copy of the bundle so that it is received by 12 noon on this date.

The Tribunal Bundle is all the evidence from both yourselves and the LA. The Bundle can be a large document and maybe sent in a few separate emails. There is a page limit - please see further for more guidance.

**Final hearing:** This is the date that you, the LA and witnesses must attend.



## LA Response Form (R1)

The LA are required to make a response to your Appeal between 4 and 6 weeks after it is registered. This is called an R1 and is their written response to your appeal. It will state whether they are opposing your Appeal or not. (This means whether they agree to your Appeal or not, for example, the Appeal will continue if they oppose it, unopposed means they agree with what you are asking).

This response should include a summary of the facts and may be very brief, the LA will address the issues in detail at the hearing.

Sometimes their response can be extremely negative and disheartening reading. It may even include information you consider inaccurate or misleading. You can send a counter-response addressing these issues by replying to all.

You can, if you wish, you can request a meeting with the person from the LA who is dealing with the case at this point. This can sometimes be a very helpful way forward. You would do this by emailing [sendtribunal@wirral.gov.uk](mailto:sendtribunal@wirral.gov.uk). It maybe that there is no Tribunal officer allocated for a number of weeks. You could also try speaking to your EHCP Coordinator.

In the first six weeks after your appeal was registered the Tribunal Team should meet with the area SEN team managers to discuss the appeal and whether they will concede/unoppose your appeal (agree with your appeal) or oppose your appeal / continue with the appeal.

Along with the R1 you will get an electronic copy of the EHCP (if you are appealing contents). This is called a **Working Document** (see next page).

### Appendices to be sent by LA with their R1

This information explains what the LA need to send along with their response (R1) which is by 6 weeks after your appeal has been registered.

You will find the appendices at the end of the Registration Letter, after the Case Directions and Key Dates table but before the blank forms that you will need to complete in the appeals process.

It is important to read this letter carefully.

The LA must provide with its response (R1), the following information:

1. all the evidence and information they had when they made their decision.
2. a copy of the reasons for the decision.
3. a copy of your child/young person's attendance record at their nursery / school or college for the last year.
4. details of the provision, progress and outcomes at SEN Support as recorded in your child/young person's SEN Support Plan.
5. a signed and dated witness statement from a member of the leadership team or the SENCo at the setting your child attends. This needs to address the issues raised in the appeal for example, if your appeal is a refusal to assess the statement should outline why they feel a needs assessment is needed. This would link to the evidence sent in point 1.
6. a short chronology of events which lead to the appeal (one side of A4 maximum).
7. A full copy of all the EHCP appendices (so all the reports and assessments listed in Section K of the EHCP) if not already provided by yourselves when the appeal was registered.

A copy of the latest Annual Review documents (if the right of appeal is triggered following an Annual Review).



### **If your appeal includes Section I (Placement)**

The LA must also provide with its response (R1), the following information:

1. all the evidence and information they had when they made their decision.
2. a copy of the reasons for the decision. This could be the Governance Board notes or L-SPA's notes.
3. a copy of your child/young person's attendance record at their nursery / school or college for the last year.
4. details of the provision, progress and outcomes at SEN Support as recorded in your child/young person's SEN Support Plan.
5. a signed and dated witness statement from a member of the leadership team or the SENCo at the setting your child attends. This needs to address the issues raised in the appeal for example, if your appeal is a refusal to assess the statement should outline why they feel a needs assessment is needed. This would link to the evidence sent in point 1.
6. a short chronology of events which lead to the appeal (one side of A4 maximum).
7. A full copy of all the EHCP appendices (so all the reports and assessments listed in Section K of the EHCP) if not already provided by yourselves when the appeal was registered.
8. A copy of the latest Annual Review documents (if the right of appeal is triggered following an Annual Review).
9. Confirmation of the name and type of educational placement that you have requested is named in the EHCP and what Law the LA applied in making its original decision to not name your preference.
10. If the LA have not named your preference of school as long as it is one of the following (listed under the Children and Families Act 2014):
  - (a) a maintained school
  - (b) a maintained nursery school
  - (c) an Academy
  - (d) an institution within the further education sector in England
  - (e) a non-maintained special school
  - (e) an institution approved by the Secretary of State under section 41

Then the LA must state which exceptions they will reply on under Children and Families Act 2014, Section 39 (4):

- (a) it is unsuitable for your child (by virtue of their age, ability or SEND)
- (b) it would result in the inefficient education of other pupils (so other children would be affected by the placement taking another child. This is normally used when the school are saying they are 'full')
- (c) it would result in the inefficient use of resources (so the placement is too expensive or it would cost too much to make changes).

11. If the Education Act 1996, Section 9 applies: Pupils to be educated in accordance with parents' wishes. Then the LA will have to state whether they:

- (a) accept that your preference of placement is suitable and can meet the child's needs BUT
- (b) the LA will evidence that to place your child at that school would result in unreasonable public expenditure.

12. The LA have to provide the name and type of their proposed educational placement.

13. For all the placements proposed by yourself and them, they must provide;

- (a) The latest OFSTED report / Independent School Inspectorate report
- (b) The prospectus
- (c) The SEN Information Report (sometimes there is only a policy)



- (d) The response received from the statutory consultation to your preference and the LAs named placement (the LA's would be the nearest suitable school that they feel can meet your child's needs)
- (e) A signed and dated witness statement from a member of the senior leadership team or SENCo outlining any evidence concerning your child/young person's place at the placement
- (f) Details of the placements costs for your and their proposed placement(s) along with supporting evidence for those costs. This must include any relevant transport costs.

### The Working Document

The Working Document (WD) is an important part of a contents appeal. It is a Word version of the EHCP which will be amended by both parties in the run up to the hearing, it will go back and forth, like a game of tennis!

The WD should be sent along with the R1 and the LA Attendance Form but sometimes this is asked for earlier if your Hearing Day has been moved. It is the first date in the key dates box at the bottom of your Parental Registration Letter (the letter you got when the appeal was registered). It will state:

The LA must send its response, attendance form and an electronic copy of the EHCP to the Parents and the Tribunal so that it is received by (then a date).

When it states "electronic copy of the EHCP" this is what the Working Document is and it **must** be in Word.

The SEND Tribunal directions (Parental Registration Letter) will include a deadline for when the working document with both parties' amendments needs to be submitted to the SEND Tribunal.

You should use the information below to mark your suggested amendments to the EHCP on the working document. You then send it to the Tribunal Officers Team (also known as the Legal Team) [sendtribunal@wirral.gov.uk](mailto:sendtribunal@wirral.gov.uk) (do look at our resource 'Checking an EHC Plan' for help if needed).

The LA should then come back to you accepting anything that they agree with or it may be that they suggest other amendments (again using the table below).

The Working Document then goes back and forth between you and the LA before the hearing date. The idea is that the key issues which you and the LA disagree about are narrowed down to make the hearing much more efficient. Anything not agreed will be taken to your appeal for the Judge to make a decision.

Surrey LA have produced a [webinar on the Working Document](#) to show how it works.

You show the changes that you are requesting using a 'key' so that it is clear to the Tribunal whether the changes are still not agreed and those that have.

### Key for amending the Working Document

Format	Meaning
Normal type	Original EHCP plan
<u>Underlined type</u> / <del>Underlined strikethrough</del>	Amendments agreed by both parties
<b>Bold type</b>	Parents' proposed amendments
<del><b>Bold strikethrough</b></del>	Parents' proposed deletions
<i>Italic type</i>	LA's proposed amendments
<del><i>Italic strikethrough</i></del>	LA's proposed deletions



## Other points to take into account

- Please ensure that you clearly reference all requested changes using footnotes (at the bottom of the page where the requested wording occurs), for example, Smith, EP, 28/02/2019, p.1, para. 5.
- Please do not use embedded comments or track changes.
- Please only use black type and Arial 12 pt for changes within the WD, though you can use a dark colour for any comments.
- Footnotes and other comments will be removed from the amended EHCP.  
See 'Checking a Plan' – you need to look at the changes you feel are needed in the Plan. You need to go through all the evidence making note of the SEN (special educational needs) identified and the SEP (special educational provision) recommended. Make sure that all of this is in the EHCP and it is in the right sections. It needs to be clear and specific.

You only need to use quotes or even highlight the key points which show the relevant needs or provision. There is no need to copy large sections from professional reports.

If you are asking for a particular School or College placement do think about how the child or young person's needs and provision can show that this placement is needed.

If you are not able to reach agreement with the LA about the contents of the EHCP, the case will proceed to a hearing.

## What is a footnote?

Footnotes appear at the bottom of the page. A number on the footnote matches up with a reference mark in the document.

## How to add a footnote?

Put your cursor where you want to add a Footnote in the Working Document text. Go to 'References', then 'Insert Footnote'.

A small number will appear where your cursor was/where you wanted to Footnote, like this [1].

As you do the above, the page will jump to the bottom so you can type what you are referencing, for example, Smith, EP, 28/02/2019, p.1, para. 5.

The following key explains each part of the example above:

- Smith is the surname of the professional that wrote the report.
- EP is the type of report.
- 28/02/2019 is the date of the report
- p.1 is where the information can be found on Page 1 of the Report
- para. 5 is where the information can be found, in paragraph 5 of the report.  
To delete a Footnote just delete the small number of the one you want to delete.

To Edit a Footnote then double click on the information at the bottom of the page that you want to edit.

## Comments

As an alternative to footnotes, you can use 'comments' which appear as small speech bubbles on the right-hand side of the document.

To insert a comment highlight the text /click review/ click 'new comment'.



### Saving a Working Document

You must use save as and not save, as you need to rename the Working Document as the next version, for example, Version 2 or 3, for example:

- V.1 – LA to Parents (12/03/2022)
- V.2 – Parents to LA (16/03/2022)
- V.3 – LA to Parents (20/03/2022)
- V.4 – Parents to LA (21/03/2022)

Remember to add your reference at the top of the Working Document too before using the save as option.

### Evidence

As you will see in the Registration Letter you would have received when your hearing was registered (the letter with the date of your hearing), you (or the Local Authority (LA)) also need to provide further information.

Please note this is not an exclusive list and some of the documents should be sent by the Tribunal Officer on behalf of the LA. If they do not send them it would be worth requesting them to be sent or sending them yourself as the lack of these types of evidence may lead to the appeal being adjourned and a decision delayed. Its recommended to provide all written information, including professional and expert reports, upon which you intend to rely.

**Table 1 - Evidence for all appeal types**

Type of evidence	What the evidence could provide
Position statement	See our guidance on this. Would show the background, what outcomes you want, express your feelings and wants and may include a timeline. As Refusal to Assess is on papers then this would include everything you want the Judge to know about the situation and your child, their needs and the provision you believe they need to meet those needs
Diagnosis letter/ paediatrician reports	Evidence of Special Educational Needs (SEN) or any recent changes to the child's medical condition or diagnosis
Provision map/IEP/ISP	Shows support the school has been putting in place prior to the Education, Health and Care Needs Assessment (EHCNA) request being made
Exclusion letter or Behaviour Support Plan if applicable	Showing behaviour displayed could be the result of unmet needs
School progress report	Shows progress made or not made with or without support (some positives or areas of development maybe evidence of lack of progress)
Team around the child/family (TAC/TAF)	Background information
Reports from professionals:	Identify specific recommendations


**Table 2. EHCP contents appeal – special v's mainstream appeal**

The types of evidence in tables 1 and are also relative to EHC plan content appeal - special v's mainstream appeal, along with the following items:

Type of evidence	What the evidence could provide
Special school prospectus and Ofsted report	Outlining the facilities and provision in place which would meet the need of the child. Maybe able to highlight difference between one school and another
Report or witness statement from mainstream school	If applicable, outlining how a mainstream setting cannot meet need
Transport costs	If applicable, outlining difference in cost
Fees if independent special school	If applicable, outlining difference in cost
If independent school – a letter showing that there is a place available	Tribunal service will request this if not submitted – the form would be called Provision of Placement (POP)
Annual Review recommendations (if applicable)	What is the outcome of the Annual Review? Have the school been reviewing the EHCP adequately? Exhausted all options? Sought appropriate support of outside agencies?

**Table 3. EHCP contents appeal (sections B and F)**

The types of evidence in tables 1 and 2, plus the following items:

Type of evidence	What the evidence could provide
Social care assessment or Child in Need report	Applicable if National Trial/Extended Trial
Any medical reports or letters issued after the EHCNA	Up to date information
Any professional reports issued since the EHCP was issued or last amended	Up to date information
Witness statements or reports from setting or professionals	Do these identify specific recommendations? The children and young people's needs - have these all been included?



You would send all these if they were not sent with your SEND 35:

- Full copies of all the 'Section K' advices, which are all the reports and assessments listed in section K.
- You would also send any other reports or assessments that are not listed in Section K that you feel are necessary.

### Late evidence

Late evidence is anything after the Final Evidence Deadline.

Remember that all written or recorded evidence must be provided to the other parties (Tribunal and the LA) as soon as it becomes available.

No further evidence will be accepted after the deadline without the express permission of the Tribunal. For the evidence to be admitted as late evidence, the application must prove that the evidence was not available at the time of the final evidence deadline and that it is relevant to the issues in the appeal.

Requests asking for late evidence to be accepted after the final evidence deadline will only be considered at the final hearing and so will delay the start of the hearing or result in its being adjourned, as the Tribunal will require time to read the late evidence.

### The LA Duty to Specify

The LA has a legal duty to ensure that the special educational provision specified in section F of an EHC plan is delivered. This is set out in section 42 of the Children and Families Act 2014. In practice, the school or college attended by the child or young person will be carrying out the majority of the provision.

It is the LA's legal duty to ensure that staff have the correct financial resources, training and equipment. The LA must also ensure any therapies such as speech and language therapy, occupational therapy or physiotherapy or the services provided by CAMHS (Child Adolescent Mental Health Service) which are set out in Section F are delivered and it is the LA's responsibility to ensure this is done.

There is no defence to a failure to secure the special educational provision in an EHC plan.

**For this reason, the LA first ensure that what they are required to provide, is very clear.**

This means that the provision stated in Section F must be **Specific** (What is the provision? Who can deliver it?); **Quantified** (How frequently does the child require this provision; where applicable for how long?). This information makes the provision **measurable**.



#### Good example of specificity

*"Ellie requires a Social Skills programme, devised by a Speech & Language Therapist (such as Talk about Town or similar, delivered by a TA who has been trained and is experienced in working with children with Social Communication difficulties. Sessions to be delivered twice a week for 20 minutes per session on a 1:1 basis or a small group of up to 4 children"*



#### Poor example

*"Ellie would benefit from regular opportunities to access Speech & Language therapy"*



## Request for changes (SEND 7) form

Once your appeal has been registered you must complete a Request for Change (SEND 7) Form (GOV.UK) to make any changes to your appeal. This could be to ask for:

- a witness summons (your witness has not confirmed they are attending)
- permission to amend grounds of appeal/response (so if your appeal is section I only and you want to include contents - sections B and F)
- you now want to include Health and Social Care sections in our appeal (this is called an Extended Appeal)
- permission to bring an additional witness (if you feel that you need more than three).
- you want to ask for an earlier hearing date (also know as an expedited hearing) a reason to ask for an earlier hearing could be that your child is out of school or that their mental health is being affected as not in school. Another reason would be that your child is going through a key stage transfer (so from primary to secondary for example) and no school will be named from next September or you are appealing because you aren't happy with the school named from September.
- Your completed SEND 7 must be sent to the LA before submitting to SENDIST and you must give them 5 working days to reply.

Guidance on how to complete a request for change (SEND 7) form (PDF)

If there is no reply you must state this on the SEND 7 after 5 working days. If there is a reply you must include it.

Once the form is completed send it to [send@justice.gov.uk](mailto:send@justice.gov.uk) and [sendtribunal@wirralgov.uk](mailto:sendtribunal@wirralgov.uk).

## Witnesses for appeals

The Tribunal need to know who you want to attend your Hearing to give evidence in your appeal. It is important that evidence is given by those who know your child/young person and are able to give information that is relevant to the areas of dispute.

Three is probably the maximum number that would need to give evidence in your appeal but witness statements can be submitted in place of personal attendance for any number of witnesses (these will need to be detailed). The Tribunal (SENDIST) has the power to limit the number of witnesses who attend as too many witnesses could prolong a case unnecessarily.

Your Registration Letter may mention an Attendance Form for both the LA and yourselves however this is now incorrect. The Form will be replaced by a Case Review Form or a SEND 45.

Special Educational Needs and Disability Tribunal forms can be found on [GOV.UK website](https://www.gov.uk).

As a parent it is important to put down anyone that you think is important to hear from during your Hearing. Remember that there is no such thing as a hostile witness. It is also important to remember that not asking the appropriate witnesses could delay your hearing, for example if you are appealing Section I and the LA have named a School you don't agree with and want to name another school



## Calling a witness

You **must** email the people/organisation that you are calling as a witness **before** completing the Attendance Form or the Case Review Form.

You would do this by simply emailing them using the following email template and entering your own details where the [ ] appear:

---

Dear [name of school],

We are writing to let you know that we have an appeal against Surrey County Council because [state why, for example, they have not named a school] and we are calling you as a witness.

My child's name is [add your child's full name] and their date of birth is [add this].

The hearing is on [add date]. The time, including the joining instructions will be forwarded once we have them. We will also send the Bundle via email once this has been received from the LA.

Please let us know the full name and job title of the person that will be attending.

We must tell the First Tier Tribunal of these details by [insert date] so please reply before this time.

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## Case Review Form (SEND 45)

The Tribunal has introduced a new Case Review Form to assist with case management and which will replaced the LA and parent Attendance Form.

Each appeal is reviewed by a Judge prior to your hearing day and this is called a Case Management Review. A Judge will look at your case and use the SEND 45 / Case Review Form to see if they feel it is ready to be heard. The forms purpose is to help the Tribunal manage cases as efficiently as possible, by getting an update on the case and to see if there has been any progress on agreeing issues that were in dispute ahead of the hearing.

The Case Review Form is a Word document, and you can type into the boxes.

Case Review Form guidance (PDF).

The form includes a list of the remaining issues to be decided by the Tribunal.

Any issues not identified at this stage in the appeal process will not be considered by the Tribunal at the hearing unless the Tribunal accepts that there are exceptional reasons for doing so.

The form must include the name and occupation of all your witnesses. It must confirm that all witnesses have provided a signed/ dated witness statement or report as written evidence in the appeal.

Both parties must confirm on the form whether they give their consent to the Tribunal deciding the issues in a Paper Hearing - an appeal where neither party attends and the panel make the decision on the basis of the written evidence submitted.



### **Position statement or chronology timeline**

Before your hearing date, it is worth writing a position statement or chronology timeline which would be part of your evidence.

A position statement is a useful document which you may choose to write (it is not obligatory unless ordered by the court) in preparation for a court hearing. As the name implies, it is a written statement setting out your position, which at a first directions hearing, should briefly set out what it is you want the court to do, and why.

At later hearings, position statements can also be useful to give both the court and the other party to proceedings pre-warning of any change in your position (for example, what you want to happen).

Position statements are useful for the court, in that they give the court a brief outline of your position in advance of the hearing. For yourself, they ensure there is a written record of your position at that time, so

that points do not get forgotten in the stress of proceedings. They may help bring a case to an early conclusion if the other party accepts your position. It can be used to give you a brief plan of what you want to achieve at the hearing.

A position statement should be brief. ideally, no more than a couple of pages long. One important point: do not assume your position statement has been read by the judge when you walk into court. Paperwork gets mislaid, and time pressures may mean the judge has had little or no opportunity to read the paperwork.

In a hearing, you should be prepared to verbally set out your position (and a written position statement helps you ensure important points do not get forgotten in court). Judges will state if they have read all the paperwork at the beginning of hearings and will check that the witnesses have also received and read the bundle. (Remember to send your witnesses the Bundle once you receive it).

A chronology timeline is a timeline that is presentation of a chronological sequence of events along a drawn line that enables a viewer to quickly understand what has happened and when.

### **When should I write a position statement or a chronological timeline?**

Technically, a judge should tell you when a statement is required, and the date by which it should be 'filed and served'. That said, people often write a position statement without such an instruction (and with no criticism for doing so without having been told to).

Filing means delivering or posting a copy of the statement to the court, while serving means delivering or posting a copy of your position statement to the other party or their solicitor if they are legally represented.

Some people have a worry that giving people advance knowledge of what you intend to say in court gives them an advantage. Making clear your position is more important, and so long as it is reasonable, practical and child focused, nothing is lost in giving the opportunity for people to think about it, rather than risk them missing those points, or your points being lost due to your not having the opportunity to express them in court, proceedings being rushed due to limited court time, or simply due to you feeling stressed.



## Writing a position statement

A position statement should be brief. Two to three pages is plenty. As with any statement, we recommend you keep content:

**Fair and Accurate:** What you write in your statement must be true, fair and accurate.

**Simple:** Your statement should be easy to understand.

**Timely:** File and serve your statement so the court and other party receive it ideally before your last evidence date. Allow for the time it will take to be delivered if you are sending it by post. Just in case it is not delivered on time, take five copies to court with you. Hand in your position statement to the court usher on arrival at the court building, asking that it be passed to the judge prior to the hearing starting.

**Short:** Keep it short. Ideally, it should be no more than two to three pages.

**Appropriate:** Think of who you are writing for! Wording which is aggressive, confrontational, overly emotional and unnecessary is not going to assist your children, your case or you.

**Child Focused:** As with any statement, keep the wording child focused.

**Reasoned:** Be clear and give your reasoning behind the requests, but succinctly. Short paragraphs are more likely to be read.

Be sure to make YOUR points: Remember it is your statement and why you are writing it. It is important to consider the balance of the overall document to ensure that your own arguments and your reasoning is prominent.

**Re-draft if necessary:** Read and re-read your statement once it is finished. Aside from checking spelling and grammar, consider whether the points you wish to make are clear.

**Try not to make paragraphs too long** - whether each paragraph/point you raise is necessary. If it is not, then delete it. Do not risk your main points being obscured with waffle, padding or repetition.

Language / sentences / paragraphs can be simplified to make them easier to understand- if what you have written could be misread or misinterpreted.

**Closure:** When it is finished and you are happy with it, put it away and come back to it a bit later. Read it again before sending it.

## The Tribunal Bundle

Local Authorities in every Appeal must prepare a tribunal Bundle. The Bundle includes all documents that were sent by both you and the LA as evidence in the appeal. (It's all the evidence that has already been sent to the other party and the tribunal).

The Bundle can be a large document and maybe sent in a few separate emails. The LA cannot choose which evidence from the other party to include in the bundle or leave out.

There will be a summary at the beginning with all the attachments listed under Sections. It is worth checking that everything you think should be contained within the Bundle, is which is why we advise that you make a list of all the evidence that your email.

The bundle will be divided into sections – Part A to (in some cases) Part H and are then numbered according to their section. For example, the first page of Part A of the Tribunal Bundle would be numbered A1; For section B it would be B1... and so on.

**Table 4: Parts of The Tribunal Bundle, including page limits**

Part of Bundle	This <u>must</u> include:
<p>Part A: The Core Tribunal Bundle (no page limit)</p>	<ul style="list-style-type: none"> <li>• The parents/young person’s notice of appeal form and any reasons for appeal or amended grounds of appeal</li> <li>• The LA decision letter</li> <li>• The LA response to the appeal and any supplementary or amended response</li> <li>• Relevant correspondence between the parties and the Tribunal</li> <li>• Any requests for changes made by parties • All Tribunal orders</li> <li>• Any further written submissions made by the parties by order of the Tribunal</li> <li>• Attendance forms</li> </ul>
<p>Part B: EHC plan (no page limit)</p>	<ul style="list-style-type: none"> <li>• A copy of the EHC plan under appeal</li> <li>• All appendices listed in Section K.</li> </ul>
<p>Part C: Parent or young person’s documentary evidence submitted by the final evidence deadline</p> <p>Page limit - 100 pages for Sections B &amp; F</p> <p>An additional 75 pages for Section I</p>	<ul style="list-style-type: none"> <li>• All documents submitted in the original application to appeal</li> <li>• Relevant professional reports which are not already appended to the EHC plan as listed in Section K</li> <li>• Relevant correspondence</li> <li>• Annual Review reports and/or SEN Support plans (Individual Education Plans, Provision Maps) relevant to the issues</li> <li>• Copies of school/college prospectus, Ofsted reports and SEN Information report</li> <li>• Any assessment report from requested school/College and offer of a place (if applicable)</li> <li>• Details of the cost of the proposed educational placement</li> </ul>
<p>Part D: LA’s documentary evidence submitted by the final evidence deadline</p> <p>Page limit of 100 pages for Sections B &amp; F</p> <p>An additional 75 pages for Section I</p>	<ul style="list-style-type: none"> <li>• All documents submitted in response to the appeal</li> <li>• Professional reports which are not already appended to the EHC plan as listed in Section K</li> <li>• Relevant correspondence</li> </ul>

	<ul style="list-style-type: none"> <li>• Copies of school/college prospectus, Ofsted reports</li> <li>• Correspondence consulting with a school/college and other LA if applicable</li> <li>• Cost of proposed educational placement including transport costs</li> <li>• Cost of transport to parent/young person's preferred educational placement</li> </ul>
<p><b>Part E:</b> (Extended appeal to include Sections C &amp; G of the EHC Plan)</p> <p>Page limit: 50 pages per party</p>	Evidence from both parties relating to Health issues
<p><b>Part F:</b> (for Extended Appeal to include Sections D and H1 &amp; H2)</p> <p>Page limit: 50 pages per party</p>	Evidence from both parties relating to Social Care issues
<p><b>Part G:</b> Final working document or agreed list of outstanding issues (no page limit)</p>	Most up-to-date Working Document that clearly demonstrates the progress made
<p><b>Part H:</b> Supplementary Tribunal Bundle (no page limit)</p>	<ul style="list-style-type: none"> <li>• Any documents admitted in the appeal after the final evidence deadline in compliance with a Tribunal order</li> <li>• Adjournment order</li> <li>• Additional evidence submitted or admitted after an adjournment order</li> <li>• Additional documentation following an Upper Tribunal appeal</li> </ul>

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<https://wired.me.uk/special-educational-needs-and-disabilities/wirral-send-partnership/>