



## Withdrawn Appeals

It is possible to stop or withdraw an appeal after an appeal has been registered. This would be done by way of a Consent agreement, which is requested using a SEND46 form.

A number of appeals won't get to the hearing date because the parties come to an agreement or the Local Authority (LA) agrees to what the parent or young person is asking for.

If the LA ask you to complete a SEND 8 - 'Withdrawal of an Appeal' form then **we would advise not to do this**. Within this guidance, we will explain how to stop a hearing happening when the LA agree to your hearing before they have submitted their response (called an **unopposed appeal**) or agree to your appeal after they have submitted their response (**concede to your appeal**).

The SEND 8 is only completed by a parent if requested by a Judge **or** you have appealed and have changed your mind, for example the LA were naming a school you are now happy with.

Depending on where you are in your appeal timeline would depend on whether it is an Unopposed or an Opposed Appeal. Here, we provide further information on withdrawing or stopping an appeal.

Some times **part of an appeal is agreed** for example a school is named you are happy with. In these cases an email would be sent by the LA to outline this. Consent Orders which are explained further in this guidance are only used when every element is agreed by both you and the LA.

### R1 - The LA Response

Once your appeal is registered, the first deadline is usually for the LA, where they are required to submit their response to your appeal. This deadline is usually within 4-6 weeks of your appeal being registered and is known as an R1.

Within their response they will inform the Tribunal whether they disagree with (oppose) your appeal or whether they agree with (unoppose) your appeal. They will also provide the reasons - or rationale - behind their decisions.

### Unopposed appeals

An unopposed appeal is where the Local Authority (LA) concedes before it has put in their response (the R1 which is about 6 weeks after your Appeal was registered). This means that they do not disagree with what you are asking for.

The LA must notify the Tribunal that they do not oppose the Appeal. The appeal is to be treated as if it was determined in favour of the appellant (You as the child's Parent/Carer or the Young Person) and the First-tier Tribunal is not required to make an order.

### Timescales for the LA to follow after the Consent Agreement:

Appeal type	Timescales for the LA to follow
Refusal to Assess/Reassess	LA must notify you and begin the Assessment within <b>2 weeks</b> The EHC Plan must be finalised within <b>14 weeks</b>
Refusal to Issue	LA must issue draft Plan within <b>5 weeks</b> ; and Issue a final Plan within <b>11 weeks</b> .
Contents (Sections B, F and/or I) After a Final Plan has been issued or Refusal to amend following Annual Review	LA must issue the amended Final Plan to you within <b>5 weeks</b> .
Section I only (Placement)	LA must amend the Plan to include the name of the school you wanted within <b>2 weeks</b>
Cease to maintain	The LA must continue to maintain a Plan <b>immediately</b> and if the LA has also agreed to amend they must amend the Plan within <b>5</b>

### Acceptable delays -

The LA need not comply with the time limits above if it is impractical to do so because:

- exceptional personal circumstances affect the child or their parent or the young person during the relevant period;
- the child or their parent or the young person are absent from the area of the local authority for a continuous period of not less than 2 weeks during the relevant period.

### Opposed appeals

Where the LA has already put in a response (called a R1, so 6 weeks after your Appeal was registered), but then changed their mind, this would still be considered an opposed appeal.

The LA should complete a document setting out what has been agreed and then both you and the LA sign it. This is known as a 'Consent agreement' or a SEND46. **You should only agree to signing a Consent agreement if you are satisfied with everything that has been agreed.**

This document would be sent by the LA to the Tribunal (and yourselves) with an explanation that the parties have agreed that the appeal is being resolved by consent. If your appeal included contents (sections B and F) then the Working Document would also need to be sent along with the Consent Agreement.

The LA should state, in their email, that the deadlines in SEND Regulations 44 apply. If the tribunal are happy with the agreement, they will issue a Consent Order detailing what must be done and ending (vacating) the appeal.



## Timescales for the LA to follow after the Consent Order:

Type of Order	Timescales for the LA to follow
Ordered to Assess/Reassess (Refusal to Assess/Reassess)	<p>LA must notify you and begin the Assessment within <b>2 weeks</b></p> <p>If following Assessment the LA decides not to issue and an EHCP the LA must notify you of the decision within <b>10 weeks</b>, giving reasons for its decision.</p> <p>If the LA decides to issue an EHCP it must send you a finalised plan within <b>14 weeks</b>.</p>
Ordered to make and maintain an EHC Plan (Refusal to issue)	<p>LA must issue draft Plan within <b>5 weeks</b> of the order being made; <b>and</b></p> <p>Issue a final Plan within <b>11 weeks</b>.</p>
Order to amend (Contents Appeal - B & F or B, F & I)	<p>LA must issue the amended Final Plan to you within <b>5 weeks</b>.</p>
Ordered to amend the named School (Section I only - Placement)	<p>LA must amend the Plan to include the name of the school you wanted within <b>2 weeks</b></p>
Ordered to cease to maintain an EHC Plan	<p>If the order dismisses an appeal against a decision to cease an EHCP, the LA must cease to maintain the EHCP <b>immediately</b>.</p>
Ordered to maintain and amend an EHC Plan (Cease to maintain)	<p>If the order requires the LA to <b>continue</b> to maintain an EHCP in its existing form, the LA must continue to maintain the EHCP.</p> <p>If ordered to continue to maintain and amend an EHCP, the LA must continue to maintain the EHCP and amend the EHCP within <b>5 weeks</b>.</p>
Case referred back to the LA	<p>If the order refers the case back to the LA for it to reconsider, the LA must do so within <b>2 weeks</b> and must either</p> <ul style="list-style-type: none"> <li>• send a copy of the draft EHCP or</li> <li>• give notice of its decision not to maintain an EHCP together with mediation and appeal advice.</li> </ul>

## Consent orders

A Judge will then look at the Consent Agreement and ensure they are happy with the contents, if they are then an Order will be sent but this can take about 20 working days. This will state that your Hearing has been vacated.

If the Judge has questions then an email will be sent to state this and the Hearing may still take place. The Tribunal do not HAVE to issue a Consent Order but will do so if "they consider it appropriate".

After a Consent Order is received from SENDIST the LA's representative will share this with the SEN Team. If the EHCP needs to be finalised they will do so within 2 weeks and then pass it to the SEN Team to sign it off.

The actions listed on the Order will be shared with those services from the LA that are involved in the appeal, for example, the EHCP Coordinator, along with a timeline of when things should happen. You should also receive a copy - if you don't, you can request one.