

Script for Video: Refusal to do an EHC Needs Assessment

Title slide

This short video will explain why a local authority might refuse to do an Education, Health and Care (or EHC) needs assessment and we'll also explain what options a parent or young person might have.

Slide 2

The law says that a local authority (or 'LA') **must** secure (or do) an EHC needs assessment if it considers that the child or young person has or may have SEN and it may be necessary for special education provision (or support) to be made in accordance with an EHC Plan.

(Section 36 (8) Children and Families Act 2014)

In other words, if there is a possibility that a child has special educational needs which may need support which **goes beyond** the resources available to learning settings to provide SEN support.

Slide 3

So, when the local authority receives a request for an EHC needs assessment, how will they know:

- if your child has, or may have, SEN
- which may need support which goes beyond the resources available to the setting for SEN support?

Slide 4

The SEND Code of Practice states that when a local authority receives a request for an EHC needs assessment they should consider:

Whether there is evidence that the child or young person has not made expected progress despite the learning setting taking relevant and purposeful action to identify, assess and meet their special educational needs.

(SEND Code of Practice 2015, paragraph 9.14)

Slide 5

The SEND Code recommends that the local authority pay attention to evidence and information of:

- your child or young person's progress and attainment
- the nature and extent of their special educational needs
- the action already being taken by the learning setting
- any evidence that where progress has been made it has been as the result of a lot of help which is in addition to what is usually provided
- your child or young person's physical, emotional and social development and health needs and they may draw on relevant evidence from health professionals and what they may have done to meet your child's needs.

Slide 6

A local authority might refuse if:

They have not been given enough information to judge whether or not your child has or may have SEN and what their progress has been like. The practitioners receiving your request most likely do not know your child and are entirely reliant on the information they receive.

Remember the SEND Code recommendation that a local authority consider whether there is evidence that the child or young person is not making expected progress despite the learning setting taking relevant and purposeful action to identify, assess and meet their SEN? Well the local authority might refuse if they feel a nursery, school or college could do more to assess and meet your child's SEN.


They might refuse if a support strategy or the involvement of one of the specialist education services is just beginning, and they feel it is reasonable to allow time to assess the impact of this intervention;

Or they might refuse if they feel that your child or young person's needs can be reasonably met within the resources available to the setting for SEN support.

Slide 7

The [Special Educational Needs and Disability Code of Practice of 2015](#) says that the local authority must give its reasons for this decision where it decides not to proceed with an EHC needs assessment.

(SEND Code 9.17)



And the Code says that the LA should also provide feedback collected during the process of considering whether an EHC needs assessment is necessary, including evidence from professionals, which you, your young person or the setting may find useful.

(SEND Code of Practice section 9.19)

So, you should have a good idea from the refusal letter why they are not going ahead with an EHC needs assessment.

If you don't, you can contact them, using the contact details on your refusal letter, to ask for their clear reasons. This is really important so that you can decide what to do next.

Slide 8

Firstly, you or your young person can send in more information and ask the local authority to reconsider their decision at their next EHC needs assessment panel meeting.

If the local authority refused because they wanted to give an intervention more time, you might choose to wait and make a fresh request in the future if needed.

Or you or your young person could meet with the local authority informally at a meeting with a member of the Family Services Team or through formal mediation to give more context, explain things in a bit more detail and to understand more about the local authority decision.

Or you or your young person could register an appeal with the [SEND Tribunal](#).

[Form SEND35a: Special Educational Needs and Disability Tribunal appeal a refusal to secure an EHC Needs Assessment](#)

Slide 9

Only a parent or carer, or someone with parental responsibility or a young person has the right to appeal to the SEND Tribunal.

If you were considering an appeal, we have lots of information on our

[Suffolk SENDIASS website](#) and [YouTube channel](#) which you might find helpful, including videos which explain mediation and also walk you through filling in the different sections of an appeal form.

Depending on availability, a member of our SENDIAS service may also be able to help you prepare your case.



Slide 10

Practitioners who may be working with your child may be able to help you.

Although a school or other practitioner does not have the legal right to challenge the local authority refusal to do an EHC needs assessment, they might be involved in supporting you or your child to gather more information to be sent to the LA.

Or a practitioner may be happy to attend a meeting with the local authority or attend formal mediation to help you add more information or context. And these meetings may be held virtually.

Or a practitioner may agree to provide a witness statement as part of a SEND Tribunal appeal.

Slide 11

Do explore our [Suffolk SENDIASS website](#) and [YouTube channel](#) for videos and more information about SEND and EHC processes which you might find helpful.

[EHC needs assessments and plans](#)

[Education](#) (including information on SEN, equality, and inclusion)

Slide 12

This video was made by Suffolk SENDIASS, but every county has an impartial and confidential SEND Information, Advice and Support Service.