

Script for Video: Preparing for a mediation meeting regarding a LA Refusal to do an EHC needs assessment

Title slide

This video is for parents and carers who wish to request a mediation meeting after receiving a local authority refusal to do an Education, Health and Care (or EHC) needs assessment for their child. It aims to help you prepare and understand what is involved.

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This recording will go through:

What mediation is and how to request it;

How to prepare for the mediation meeting, including key points to consider regarding your reasons and evidence;

And we will also explain who and what to expect at the mediation meeting.

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If you are still considering whether to lodge an appeal, you may like to watch this separate video which explains your options:

[Refusal to do an EHC needs assessment - YouTube](#)

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You may still be undecided about a mediation meeting.

For a refusal to assess appeal, you must first consider mediation.

Mediation is an informal way of settling disagreement with the local authority and/or the health commissioner. It is completely free.

You don't have to go to a mediation meeting – this is voluntary and you mustn't feel pressured into going.

But you must contact the service providing SEND mediation and consider it.



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If you have already had a lot of informal discussions or meetings with your local authority you may feel a mediation meeting will not be so helpful and you may want to ask for your mediation certificate straight away, in order to begin processing your appeal to the SEND tribunal.

However, if you have not had a proper talk with the LA about why they refused assessment, mediation may help as this gives you the chance to explain your points, give more context and get a better understanding of the local authority decision which may help you build your case to appeal, if you continue with it.

You may also consider a mediation meeting to give yourself more time to appeal, if it extends your appeal deadline.

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In our county of Suffolk the mediation service is provided by Anglia Care Trust and their details are on screen, but every county will have their own mediation service.

If you are watching this video from another county, your local SEND information, advice and support service will be able to give you their contact details.

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If you decide you would like a mediation meeting, have to hand the letter you received from the local authority stating their refusal to assess when you contact them.

The mediation service will ask you for the date of the letter, the reasons the local authority gave for refusing your request for an EHC needs assessment and a general idea of why you are unhappy with the decision.

The mediation meeting must be held within 30 days of your request for mediation meeting.


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Before a mediation meeting the mediation service will agree:

Who needs to be there;

Clarify any issues and the nature of the disagreement;

And try to obtain the views of your child or young person.



The meeting is usually held at the mediation service premises but let them know if this would be difficult for you as the SEND Code of Practice says that the time and place of a mediation meeting should be convenient for all parties.

Mediation meetings often take about an hour.

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To help you prepare for your mediation meeting, let's consider the reasons a local authority (or LA) might give for refusal.

The LA might suggest that your child's school gain additional advice by making a referral to a specialist education services (these support schools to support children and young people with special educational needs) and every county will have some. In our county of Suffolk there are 5 Specialist Education Services.

If this is the case, consider has the specialist service already been involved with your child for some time? If yes, what impact has this had?

Ask the LA representative at the meeting what additional information a further cycle of specialist advice might bring?

Has the school made a referral to this specialist service and it was refused?

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The LA might state that they believe your child's setting can address your child's needs.

If this is the case and you disagree, consider what evidence you could share at the mediation meeting to show that the setting has been struggling to address your child's needs.

Are there emails/ school reports or details of exclusions or suspensions which might demonstrate this?


Has your child been taught outside of the main classroom for long periods?

Is there new evidence that the local authority hasn't yet seen? For example, a recent suspension or a recent report which has happened since you made your request for an EHC needs assessment which you could share at the meeting?

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The LA might refuse if they believe that your child is making progress.

If this is the case and you disagree, is there any further evidence you could prepare to show this is not the case, including your child's views?



Is your child only making progress as a result of significant additional support?

Remember there are four areas of special educational need, including social, emotional and mental health needs. It may be that your child is making academic progress but there has been a real decline in their mental health or in their ability to communicate and interact with their peers. If this is the case, what could you prepare to demonstrate this, including gathering and sharing your child or young person's views and feelings?

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Our service's leaflets Making Meetings Matter and Refusal to Assess may also help you prepare.

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So who and what can you expect at a mediation meeting?

There will be a trained independent mediator who will try to help you all reach agreement.

The mediator is impartial – that means they do not take sides or judge or give advice. Their role is to manage the confidential process fairly and to help all parties to communicate and explore the options to come to a resolution.

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At a mediation meeting, the mediator will:

Introduce everyone;

Read through an agreement and check everyone is happy to sign it and go ahead with the meeting. This agreement will be about listening to each other, not talking over each other, being considerate of each other.


Explain the role of the mediator to everyone;

Give an overview of the issues to be discussed as they have been presented by the local authority and by the family.

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The mediator will:

Make sure that everyone listens to each other, understands what is said and has the chance to share their issues and ask questions calmly;



May take notes in the meeting and will summarise any agreed actions and make sure that everyone is happy to sign an agreement, if an agreement is reached;

They will ensure each party has a copy of any signed agreement;

And they will issue a mediation certificate.

The mediator will also try and keep the meeting feel relaxed and informal.

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At the mediation meeting there should be a representative from the local authority with the authority to make decisions.

The LA can change their minds at mediation and agree to an EHC needs assessment.

This is of course not guaranteed but often a face-to-face conversation can give families the opportunity to explain points and give context that may not have been so clear on paper.

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If you don't reach agreement, you can appeal to the SEND Tribunal either:

Within 2 months of the date on the decision letter you received from the LA which gives you the right to appeal

Or

Within one month from the mediation certificate, whichever is later.

So, for example, if you had a mediation meeting at the end of the two-month appeal timeframe, the certificate will buy you a month's extra time to lodge your appeal.

However, if you received your mediation certificate in the first month of the two-month timeframe, then it will not buy you any extra time.

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If you go forward with an appeal to the SEND Tribunal, the tribunal will not take into account if mediation did or did not go ahead, nor will the outcomes or actions agreed at mediation be shared or considered.

So just to be clear, whether you decide to have a mediation meeting or not, you will need the certificate in order to lodge your appeal.

For all refusal to assess appeals, **you must show** that you have first considered mediation



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To appeal a refusal to assess decision, you will need to download the Tribunal appeal form **SEND 35a**.

Not SEND 35 which is the form for appealing other EHC decisions.

If you google form SEND 35a and it should take you directly to the webpage you can see on screen and then you can click on the document link to download the form. Then save it to your computer.

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We have a separate video on our Suffolk SENDIASS YouTube channel which explains:

How to fill in appeal form 35a

Goes through key points to help you prepare your reasons for appeal and how to link them to evidence

And explains how to lodge your appeal and what to expect from the SEND tribunal after you have lodged it.

[Preparing an appeal against a LA refusal to do an EHC needs assessment. - YouTube](#)

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And remember there is further information about appeals on our Suffolk SENDIASS website which may help you:

[Refusal to assess \(appealing the decision\) - Suffolk SENDIASS](#)

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