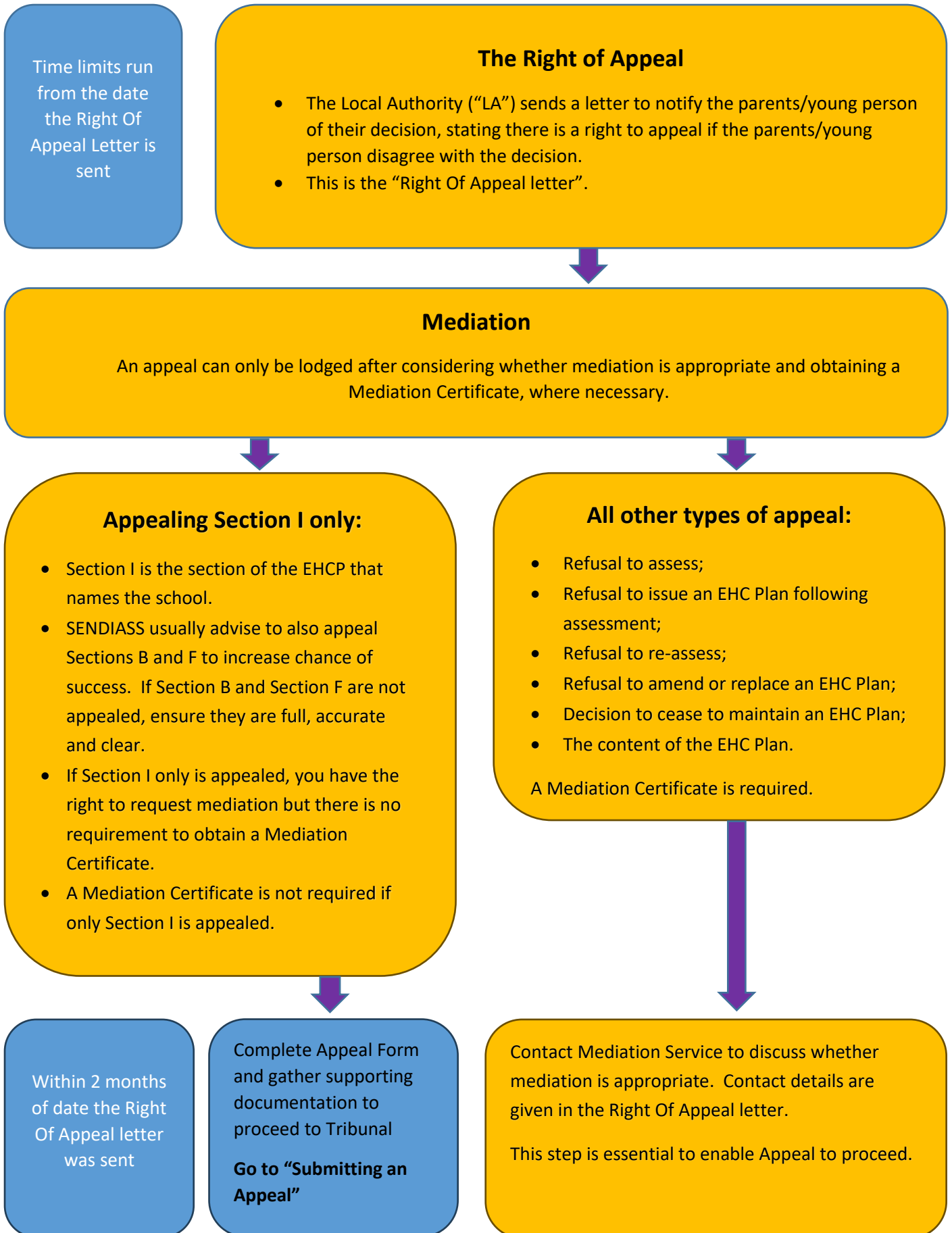
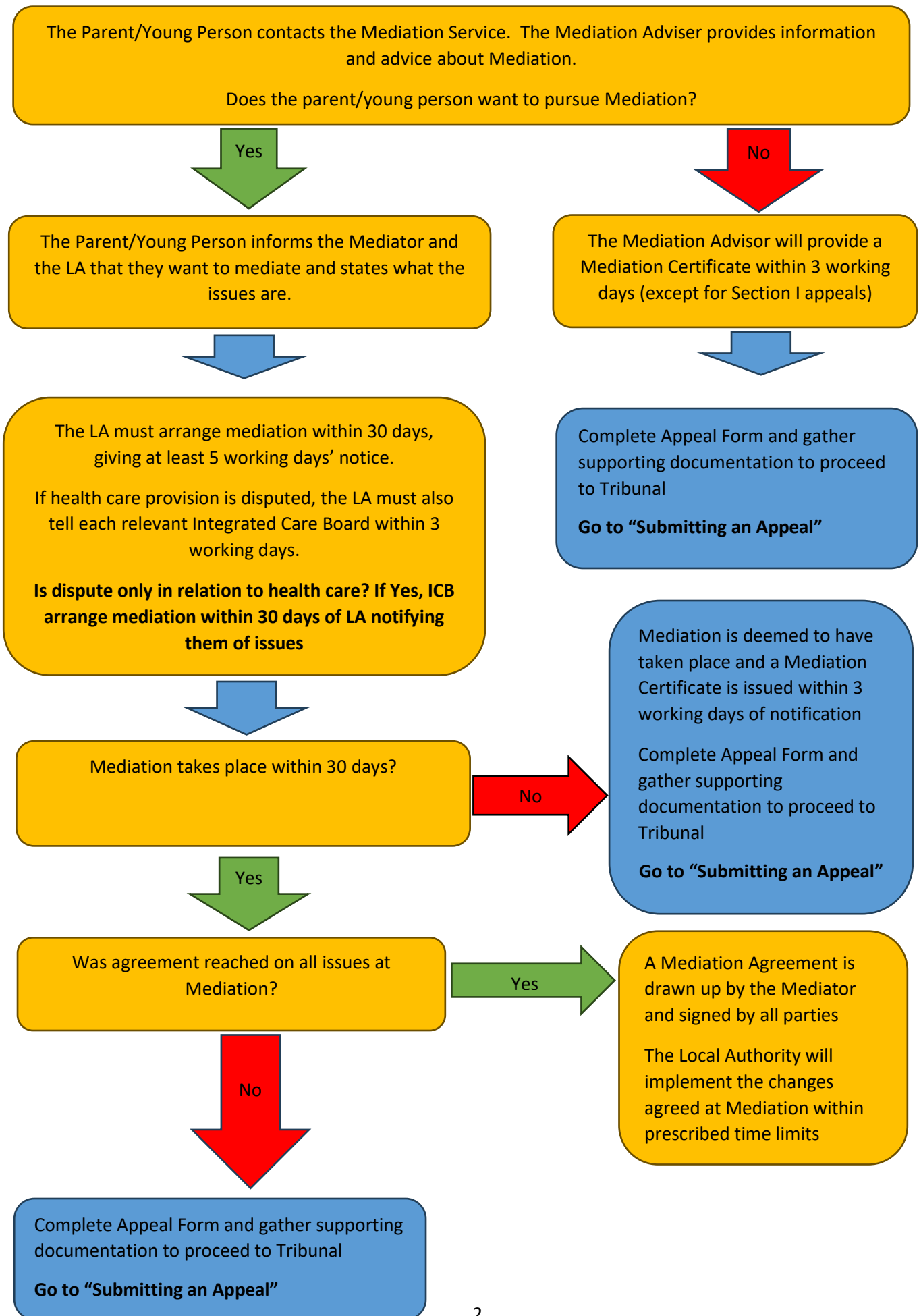


The Tribunal Process

Please use this chart in conjunction with the SENDIASS leaflet: [Tribunal: Lodging an Appeal](#)



The Tribunal Process



The Tribunal Process

Please use this chart in conjunction with the SENDIASS leaflet: Appeal Process: After Lodging Your Appeal

Submitting an Appeal

Complete the relevant Appeal Form for the type of Appeal:

- Refusal to Assess;
- Refusal to Issue an EHCP;
- Appealing Educational Elements of final EHCP;
- Appealing Health and Social Care Elements of a final EHCP;
- Appealing the setting named in Section I.

Appealing LA refusal to assess for EHCP:

- Complete Form SEND35A

Any other type of appeal:

- Complete Form SEND35

Within 2 months of date Right Of Appeal letter was sent

Or

Within One Month of Date of Mediation Certificate

Whichever is later

Submit documents to Tribunal

Appealing LA refusal to assess for EHCP:

- Appeal Form SEND35A
- Right of Appeal Letter
- Mediation Certificate
- Copy of Request for Assessment
- Other relevant evidence you currently have
- Include a Contents page

Any other type of appeal:

- Appeal Form SEND35
- Right of Appeal Letter
- Mediation Certificate (unless appealing Section I only)
- Copy of EHC Plan and appendices,
- Other relevant evidence you currently have
- Include a Contents page

Lodge documents online if possible, or send by Recorded Delivery and keep copies.

Email and postal addresses are listed on the Appeal Forms, SEND35A and SEND35.

The Tribunal Process

After submitting an Appeal: What happens next?

Within 10 working days

The Tribunal Service will send an email confirming that the appeal has been successfully lodged:

- A “Parent Registration Letter” will be attached, which provides:
 - An explanation of the Tribunal process;
 - Deadlines for the next steps to be taken by the parents/young person and by the Local Authority (“LA”);
 - Advice on how to communicate with the Tribunal Service.

The Tribunal Service will also notify the LA of your appeal.

After the Tribunal Service has acknowledged your appeal, all further correspondence and paperwork **must** be sent to both the LA and to the Tribunal Service.

Within 10 working days of confirmation letter from the Tribunal Service

The LA will give a written response providing a brief summary of the facts.

You can send a counter response to address any points raised by the LA which you consider to be inaccurate or misleading.

Getting support with your Appeal

The SEND Tribunal is designed to enable parents to go through the appeal process without the need to use lawyers. Support may be available from Wokingham SENDIASS or from the following organisations:

IPSEA <https://www.ipsea.org.uk/tribunal-support-service>

Network 81 <http://www.network81.org.uk/>

Legal Aid

Some parents are eligible for Legal aid, which will help with certain elements of preparation for appeal. You can check if you are eligible by visiting the government website:

<https://www.gov.uk/check-legal-aid>

The Tribunal Process

Tribunal Forms

Parent Attendance Form and Your Witnesses

What is this form for?

It lets the Tribunal know who will attend the hearing.

Who can attend the hearing?

- A family member or a friend can attend with you if you wish.
- Your child can attend, but this is not common practice. They can speak first at the hearing so they can then leave.

Can I have a representative?

- A representative is someone who will give advice on the issues in the appeal, prepare the paperwork and represent the person making an appeal to the Tribunal.
- If you would like representation you could also try IPSEA or Network 81 IPSEA
<https://www.ipsea.org.uk/tribunal-support-service>
Network 81 <http://www.network81.org.uk/>
- You may want to have a solicitor or barrister at the hearing, but you will need to fund this yourself.
- Wokingham SENDIASS may be able to support you but we are not legal representatives. If Wokingham SENDIASS have agreed to attend the hearing with you, we ask you to include the following wording on the attendance form: "Wokingham SENDIASS are attending in primarily a supporting capacity but would request the ability to speak in place of the parents if required. They are not legally qualified."

The Tribunal Process

Parent Attendance Form and Your Witnesses (Continued)

Who can be a witness?

- A professional who has assessed or worked with your child.
- School staff such as a teacher or the SENCO can be asked, but as they are employed by the LA, they may be cautious. If they attend as the LA's witnesses, you can also ask them questions at the hearing.
- If you are seeking placement at a particular school, you may want to ask a representative from that school.
- If you intend to have more than 3 witnesses, you need to request this via a **Request for Changes** form, and explain why the witnesses are needed.
- If a witness cannot attend, you could ask them for a witness statement.
- If you do not yet know the names of the witnesses at the deadline for submission of the attendance form, you can write "To be confirmed". Use the **Request for Changes** form to provide an update later.

Does each side call a witness?

- Witnesses are not perceived to be for one party or the other. Either party can ask questions of a witness at the hearing, to ask for information and to provide a clearer picture.
- Ask potential witnesses before you complete and submit your attendance form.

30 days after
confirmation letter

Submit Attendance Form and details of Witnesses

The Tribunal Process

Tribunal Forms

Request for Changes Form ("RFC")

What is this form for?	To communicate anything to the Tribunal.
When can I use it?	As many times as needed during the appeal process: <ul style="list-style-type: none">• adding further evidence;• asking Tribunal to direct LA to provide essential evidence;• requesting a change in witnesses or attendees;• asking the Judge for additional directions;• informing the Tribunal if the LA has missed a deadline set out by the Tribunal.
What is the process?	<ul style="list-style-type: none">• Always seek the LA's response first, allowing them time to respond.• Complete the RFC form and send it to the LA only. You will send it to the Tribunal Service after the LA has responded.• Be clear and explicit. Use an additional sheet if necessary and make it clear that this is attached.
When will the LA respond?	<ul style="list-style-type: none">• Give the LA 5 working days, unless the hearing is in less than 2 weeks, in which case 2 working days.• If the hearing is within 5 days, seek the LA's response as soon as possible. You may need to ask the Tribunal judge to consider the request at the start of the hearing.
What happens next?	<ul style="list-style-type: none">• When you receive a response from the LA:<ul style="list-style-type: none">• send the completed RFC form and the LA's response to both the Tribunal Service and the LA.• If the LA fails to respond, send RFC form to the Tribunal Service and the LA, making it clear that the LA has not responded. Provide evidence if possible.

The Tribunal Process

Tribunal Forms

Case Review Forms

What is this form for?

- To clarify outstanding issues;
- To seek an update regarding a Section I placement;
- To check if parties are ready for the hearing;
- To confirm who will attend the hearing.

When is it used?

It is issued with initial directions but may also be sent with any Orders issued before the hearing

When should it be submitted?

The same day as the Bundle is submitted.

The Tribunal may strike out the appeal if the Case Review Form is not submitted on time.

Usually 2 weeks before Hearing, the same date as the Bundle is submitted

Submit Case Review Form

The Tribunal Process

The Working Document

What is the Working Document?

The purpose of the Working Document is to show proposed amendments to a disputed EHC Plan.

Who provides it?

- The LA will send this to you. They might initiate the Working Documents by proposing amendments in response to your reasons for Appeal, or they might invite you to initiate changes.
- The Tribunal will provide a “key” to show how proposed amendments and deletions are annotated.

What should I do?

- Consider your reasons for Appeal, and go through the Working Document and make your proposed amendments, following the Key.
- For Section B, use descriptions from professional reports to detail your child’s Special Needs and Learning Difficulties;
- For Section F, use recommendations from professional reports for the provision to meet those needs.
- Use footnotes to state which professional report the quotation has come from, including the page number.
- The LA should also consider amendments that are not supported by professional evidence.

What happens next?

- The Working Document will be sent back and forth between you and the LA, with the aim of reaching agreement each time. This should lessen the areas of dispute before the hearing.

10 working days before the Hearing

The LA must send the final Working Document to the Tribunal and to you.

The Tribunal Process

Evidence

Examples of evidence

You will have submitted some evidence when you lodged your appeal. You may wish to submit further evidence, for example:

- School progress reports
- School incident records
- Emails from school
- Minutes from meetings
- Medical reports or letters
- A video or audio recording of your child, if you feel it is appropriate.

How to submit further evidence

When should I submit evidence?

- Both parties must submit any further evidence as soon as it becomes available. This helps to resolve issues ahead of the hearing.
- The deadline for submitting final evidence will be in the parent registration letter.
- Keep the deadline date even if evidence will be late. Delaying the deadline would also delay the hearing date.

How do I submit evidence?

- Enclose a covering letter explaining the relevance of each new piece of evidence.
- Send to **both** the Tribunal Service and the LA.

Keep a log of all evidence you submit and the date submitted, and cross check with the bundle.

Late evidence

Ask the LA for their view first. Then ask the Tribunal for permission to submit late evidence.

- Use the Request for Changes Form to:
 - ask permission to submit evidence that is expected to be received after the final deadline;
 - ask permission to submit evidence received unexpectedly after the final deadline;
 - ask the Judge to order that a particular piece of evidence is provided.
- Ensure that you:
 - Explain why the evidence is relevant and important; and
 - Explain why the evidence is late.

The LA will use the same process for late evidence.

The Tribunal Process

Directions and Telephone Case Management Hearings

Directions

What are directions?

- Directions are instructions given by the Tribunal Service.
- Directions provide the date for the hearing, and a timetable for preparation for the hearing.
- The Tribunal Service provide the initial directions, and either party can ask for further directions.
- The Judge may decide to issue further directions without either party requesting them, to help the case to progress smoothly.

When would I request further directions?

At any point after the LA has sent their response to the lodging of your appeal.

Why would I need further directions?

- If you need clarity and guidance from the Judge, if things have become stuck or confused.
- If you are concerned the LA is failing to provide essential evidence.
- If the LA is failing to respond to the working document.

How do I request further directions?

Use the Request for Changes form.

The Tribunal Process

Directions and Telephone Case Management Hearings

Telephone Case Management Hearing (TCMH)

What is a TCMH?	It is a joint telephone conversation between you, the Judge and the LA.
What is it for?	<ul style="list-style-type: none">• To help things to progress when they become stuck or confused;• The Judge may provide directions, for example for evidence to be provided,• It is not a final hearing.
What do I need to do?	<ul style="list-style-type: none">• The Tribunal Service will send details of how it works, and what to do.• A Freephone number will be provided to everyone, and you will be given a code to enter.• Everyone will be given a chance to speak.• The call will last approximately 30 minutes.
Who can seek a TCMH?	Either party.
When can I seek a TCMH?	At any point after lodging your appeal.
How do I seek a TCMH?	Use the Request for Changes form.
How is it helpful?	You can bring important points to the attention of the Judge: <ul style="list-style-type: none">• if specific professional assessments are required;• for Refusal to Assess – if you believe the evidence to be very clear;• if the case would not otherwise be ready for the hearing.
What happens next?	The Judge sends an Order, directing one or both parties to take particular steps.

When an Order is received, make a note of the dates, and attend to these steps as a priority.

The Tribunal Process

What happens after the final evidence deadline?

Usually 2 weeks before Hearing, the same date as the Bundle is submitted

Submit Case Review Form

The Hearing Bundle

This is the full collection of evidence submitted by both parties.

Who prepares the bundle?	The LA
What should be in the Bundle?	<ul style="list-style-type: none">• All of your evidence, and the LA's evidence.• The pages should be numbered, with an index.
When should it be sent?	<ul style="list-style-type: none">• Two weeks before the hearing.• The LA should send a copy to you and to the Tribunal.
What should I do?	<ul style="list-style-type: none">• Check that all the evidence you submitted has been included, especially additional evidence and related emails;• Familiarise yourself with the whole bundle, including the LA's evidence;• Highlight any parts you think you will want to draw attention to at the hearing.

Time and venue

When will this be confirmed?	2 weeks before the hearing Hearings are usually online
What do I need to do?	<ul style="list-style-type: none">• Let your witnesses know the time and arrangements• Give them their copy of the Bundle.

Opening/Closing statements

It can be helpful to prepare a statement to read out:

- What do you believe to be the issues?
- Describe your child and what you want for him or her
- If you are appealing the named school, speak about your chosen school, what it provides and specialises in.

The Tribunal Process

At the Hearing

Who is on the Tribunal Panel?

A Tribunal Judge, and one or two experts in the field of SEND.

The hearing is formal, but the Judge will not wear a wig or gown.

What form will the hearing take?

- A formal conversation, with the Judge directing.
- It is important that no one interrupts when someone else is speaking.
- The Judge will decide how to run the hearing and parents and the LA take their lead from him or her.
- At the start of the hearing, the Judge will ask for views on disputed points.

What will I need to do?

- You can read a statement at the beginning, and you may also want to speak at the end, which gives you another opportunity to respond to points raised.
- **Make notes throughout the hearing of any response you wish to make to something that has been said.**
- The Judge will not expect you to argue your case, as this is contained in the paperwork already submitted.
- The Judge will expect you to be familiar with what you are seeking – for example, whether your chosen school's Ofsted rating is outstanding.

Can I get a chance to speak?

- At the start of the hearing the Judge will ask for views on the disputed points.
- Both parties can put questions to each other and to any witnesses.
- Witness questions will be restricted to disputed areas.
- You can tell the Judge if you feel the LA has pressurised you, blocked or stalled, or been in any way uncollaborative.
- The Judge will usually give both parties a chance to briefly state their position at the end of the hearing.

How will disputed parts of the Working Document be resolved?

- If sensible amendments are proposed (**and referenced with evidence**) the Tribunal will be more willing to adopt them.
- A well prepared Working Document should enable the Tribunal Panel to focus on real areas of dispute.
- The Tribunal Panel may ask the parents and the LA to temporarily leave the meeting to amend the Working Document.

The Tribunal Process

After the Hearing

10 working days after the Hearing

You will receive the Tribunal decision (and reasons for decision)

The LA must carry out any Tribunal orders within a specific time

Start an EHC needs assessment/reassessment	Within 4 weeks, and notification must be within 2 weeks
Make an EHC Plan	Within 5 weeks
Make changes to an EHC Plan	Within 5 weeks
Change the school named in line with parents' wishes	Within 2 weeks
Continue an EHC Plan	Immediately
Cease an EHC Plan	Immediately