

Refusal to Assess / Issue



Decision letter from Local Authority (LA) stating they are refusing to assess your child/young person (CYP) as part of the EHC Needs Assessment or they are refusing to issue an EHCP following the EHC Needs Assessment.

You only have two months from this letter in which to appeal this decision.

If you want to appeal either decision you must consider Mediation, to do this you will need to contact KIDS Mediation Service on 03330 062 835. KIDS will book you in to speak with a mediator on the phone for a MIAS (Mediation Information Awareness Session) where they will explain the mediation process. At the end of this call you will make a decision about whether to attend a mediation meeting where you may be able to get the LA decision overturned or proceed to tribunal where an independent judge and specialist member will make the decision.

If you decide to go to mediation KIDS will organise the mediation meeting within 30 days of your MIAS call. They will invite a representative from the LA who will have decision making powers to attend. A decision must be made at this meeting – this decision is legally binding, if the LA still don't overturn the decision then you can proceed to tribunal. Within three days of your mediation meeting you will receive the mediation certificate you will need this if you have to proceed to tribunal. The mediation certificate may extend your time in which to appeal; you have two months from the LA decision letter or one month from the mediation certificate whichever is later.

If following the MIAS phone call you choose to go straight to tribunal you will be issued a mediation certificate within three days of the call, you will need this certificate to proceed to tribunal. The mediation certificate may extend your time in which to appeal; you have two months from the LA decision letter or one month from the mediation certificate whichever is later.

Following the mediation meeting or once you have received the mediation certificate if you need to appeal to the tribunal you need to fill in a SEND35A form for a 'refusal to assess' and a SEND35 form for a 'refusal to issue'. Both these forms can be downloaded from the SENDIST website