

The Special Educational Needs Disability (SEND) tribunal is changing

Starting on 3 April 2018, the SEND tribunal will have some new powers.

SEND tribunal can now look at health and social care concerns too

If you have concerns about the education sections of an Education, Health and Care (EHC) plan or about a local authority decision to not issue an EHC plan, you can go to the tribunal and ask for these concerns to be addressed. For these cases, you will now also be able to ask the tribunal to look at the health and social care sections of the EHC plan as long as the local authority decision happened on or after 3 April or the plan was issued or amended from 3 April.

You still need an education complaint to go to tribunal

One important thing to understand is that you cannot go to a SEND tribunal if you do not have an education complaint – a health or social care complaint without a special educational concern does not enable you to use the SEND tribunal which must be “triggered” by a special educational concern. More information on what is included in a special educational concern, and how to appeal, is set out on [GOV.UK](https://www.gov.uk).

This gives families a “one stop shop” (or single route of redress) where they can seek redress for concerns in an EHC plan.

Previously, the tribunal had no powers over the health and social care aspects of a plan. Now, all elements of a plan can be reviewed in one place **as long as there is an education concern.**

The tribunal can make “non-binding” recommendations about health and social care provision in EHC plans

The judgements that the SEND tribunal makes about health and social care elements of an EHC plan are “**non-binding**”. This means that the law does not require health and social care commissioners to follow the judgements.

Although the judgements are non-binding, the local authority and health care commissioners are expected to follow them and because they are recommendations from a specialist tribunal, they cannot be rejected lightly.

The health or social care commissioner must write to the family and the local authority within five weeks to tell them if they are going to follow the recommendations or not. If they are then they need to explain the actions they are going to take. However, if they decide not to follow the tribunal judgement, they must explain why they are not following the tribunal’s

recommendations. In these instances, you can still take your case to the relevant ombudsman (for [social care](#) or for [health](#)) and / or judicial review as you can now.

This is a two-year national trial

The government are trialling this new process for two years. At the end of the period, they will assess how well it has worked and make a decision on what happens next.

More information can be found at:

- Your local [Information, Advice and Support Service](#) (IASS) – IASS can provide free, impartial advice about the law on SEN, local SEN arrangements and support, the trial and your rights. It can provide support with managing appeals, including support with preparing cases and attendance at hearings.
- [GOV.UK](#) Tribunal website – This includes advice on making SEND appeals to the Tribunal and links to the appeal form.