



## Appeal Process – Appeals Process – Guidance following email received from Tribunal when registering an appeal (SEND 35)

With acknowledgement to Surrey IAS: <https://sendadvice.surrey.org.uk/appeals-process-guidance-following-email-received-from-tribunal-following-a-new-appeal-send-35/>

Once you have lodged your appeal, i.e. sent off your SEND 35, you will get an email from Tribunal with the subject:

**“HD (date) – (then your appeal number) – new registration SURNAME”.**

This means that Tribunal have registered your appeal.

From now on any further documents you send to Tribunal **MUST** be sent to the LA too using the format below:

1. Current hearing date in the format of dd.mm.yy
2. Subject matter (e.g. LA response or Request for Change)
3. Case number and child's/young persons name

### **Explanation of the documents attached**

Any attachments starting in ATT e.g. ATT0002, are logos or pictures.

New registration parent letter: This is a letter about the appeal and as it states the LA will now be aware that you are appealing. It may be that your Case Officer will direct you to the Tribunal Team from now on (as they are in different teams)

This letter also includes the date of your hearing – on the second page and an Attendance Form, at the back.

Read this letter in full as it's very important.

This letter states that the final hearing date is subject to confirmation by the Tribunal about 10 days before the hearing. If Tribunal change the date you will hear three weeks before the hearing. You won't get the location and time of the hearing until a few weeks before the date of the hearing (we have known it to be a week before).

This letter also talks about paper appeals. This may be where neither party attends the hearing in person. If you would prefer a paper hearing where the Tribunal panels



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make a decision on the evidence submitted without turning up, both parties must consent to this. An agreement for the appeal to be concluded on the papers without an oral hearing can be sent using the Request for Changes form (RFC form) and will be treated as an exceptional request and may lead to your appeal being concluded on an earlier date.

Page 2 onwards are your case directions. Your appeal number will be at the top along with the child's full name.

Points 1 to 10 outline in detail what to do at different stages, detail of what is needed and detail of what you will need to provide as the parent. These are linked to the Key Dates table which is at the end of this section and looks like the one below.

These **KEY DATES** are **REALLY** important.

The tribunal will not consent to any withdrawals or conceded appeals within 5 working days of the final hearing date. An application for concession or withdrawal made within five working days of the final hearing will be **REFUSED** and the parties will be directed to attend a hearing before a Tribunal Judge to explain the reasons for the late settlement of the appeal. The hearing may be on the same date as was fixed for the final hearing or within 5 days of it and the parties will be notified of the date when they contact the Tribunal. Within 5 working days of the hearing

A, B, C, D and E outlines what you need to provide depending on the type of appeal you are doing:

**A** Where the appeal is against a refusal to secure an EHC assessment or a refusal to issue an EHC plan

**B** Where an appeal is against a decision to cease to maintain the EHC plan

**C** Where the appeal is against what the EHC plan says about the child's special educational needs or special educational provision the child should receive

**D** Where the appeal concerns an approved independent school

**E** Where the appeal concerns a child who is the subject of residence or care proceedings in the Family Court



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### Request for changes

If you or the LA objects to any of the directions or wishes to vary any of the directions you must first of all contact the LA to see if agreement can be reached. The LA will do the same.

If agreement can be reached a consent application (sometimes called a consent order) setting out the proposed new direction should be sent to the Tribunal signed by both you and the LA. If agreement is not reached, the party seeking to vary the directions must use the Request for Changes Form (SEND 7) and send a copy to the other party and to the Tribunal.

The other party must send their objections to the party making the request and to the Tribunal. The request and objections will be considered by a Tribunal Registrar or a Tribunal Judge who will issue a direction. Any party may apply for a review of a Registrar's direction within 14 days of its being made. The Request for Changes Form can be requested from the Tribunal or is downloadable at <http://www.tinyurl.com/sendforms>

### Failure to comply

This guidance explains that the Tribunal has power under Rule 8 to strike out all or part of the party's case or to bar a party from further participation in the proceedings if they do not comply with the Tribunal's directions.

The second to last page is Explanatory Notes and explain about Witnesses and Representatives/Helpers. It also explains that a child (who the appeal is about) can attend but you should have someone to look after the child as it isn't always appropriate for them to attend the whole hearing.

The last page explains the working document and who does this and what happens next.

It also gives the key to use when you are working on the working document (EHCP):

**Normal type:** Original EHC plan

**Underlined type/strikethrough:** Amendments/deletions agreed by both parties

**Bold type:** Parents proposed amendments

**Bold strikethrough:** Parents proposed deletions



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**Italic type:** LA's proposed amendments  
**Italic:** strikethrough LA's proposed deletions

The Working Document should arrive at least 10 working days before the hearing – an electronic and a hard copy. The LA will send this to you as the parent and Tribunal.

### **Bundle Guidance**

This outlines what the LA will be doing to produce the bundle for the Tribunal and what must be included. It also outlines the maximum pages allowed in each Appeal type in addition to the core Tribunal Bundle (Part A) and the EHCP plus appendices (Part B).

It also includes guidance on How to send the bundle, Supplementary Evidence, Late evidence, Working documents, Adjourned hearings, Non-Compliance with the Tribunal's directions. Manually produced Tribunal Bundles and Application for permission to appeal following a Tribunal decision.

It shows how the bundle will be divided into sections – Part A to Part D.

This is guidance for producing a Tribunal Bundle for the First-Tier SEND (called a SEND 40).

### **How you can help us**

This explains how to help the Tribunal. It outlines when to make Telephone Calls, about Correspondence, Postponements and Late evidence.

It also outlines the Dos and Don'ts:

### **Do**

- Please quote the full case number on all correspondence to the Tribunal as this will help us link it to the file quickly.
- If you have access to email, this is our preferred method of receiving correspondence; you should include the hearing date first along with the case



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number and the child's/young persons name in the subject title box. (Please refer to the tribunals guidance titled electronic documentation).

- Only send one copy of your correspondence (there is no need to send an original in the post if you have sent it by fax or email). We will destroy any duplicate copies sent into the Tribunal.
- When possible please send us single-sided documents.
- Let us know promptly either by phone, email or post if your case is withdrawn or settled. This will avoid any unnecessary action on your case and may enable us to reallocate your hearing day to another case.

### How to help us e filing

This explains how to 'Help us help you by filing your electronic documents correctly'.

Basically it states that you need to ensure that all e forms are completed correctly so that emails are automatically filtered using the subject title and include the following:

1. Current hearing date in the format of dd.mm.yy (if known)
2. Subject matter (see below for the work types incorporated under the subject matter)
3. Case number and child's/young persons name

If you have any questions for Tribunal Bundles please call the Tribunal Helpline on 01325 289350 or email [send@justice.gov.uk](mailto:send@justice.gov.uk) You will also find additional information on their website.