

COVID 19: SEND Disagreement Resolution

We have compiled a list of the latest information and government guidance on COVID 19 and SEND Disagreement Resolution. You can also find a section on frequently asked questions at the end of this document. If you have a question that is not covered in this section please email us at SENDdeliverysupport@mottmac.com. We will be updating the document as and when new information is made available.

Latest information, advice and guidance from government departments

The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020

The Secretary of State made amendments to the Children and families Act 2014 which came into effect on 1 May 2020. The amendments modify the duty on local authorities to secure special education provision and on health commissioning bodies to arrange health provision in accordance with EHC plans so that they can discharge by using their 'reasonable endeavours'.

- The announcement was made in a joint ministerial letter from Minister Ford, Parliamentary-Under Secretary of State for Children and Families, and Minister Whately, Minister of State for Care, to children and young people with SEND and their parents and carers. (Can be found at the top of the [toolkit page](#) under **section A**)
- [A notice to modify section 42 of the Children and Families Act 2014](#) (lasting for one month, potentially renewable) will mean that local authorities and health commissioning bodies can discharge their duty to secure the provision set out in an EHC plan by using their 'reasonable endeavours'.
- [The Special Educational Needs and Disability \(Coronavirus\) \(Amendment\) Regulations 2020](#) will temporarily amend four sets of Regulations that specify timescales for various processes relating to EHC needs assessments and plans. These changes will expire on 25 September 2020.

EHC assessments and plans: Guidance on temporary legislative changes relating to coronavirus

The Department for Education have published guidance on temporary changes to education, health and care legislation during the coronavirus (COVID-19) outbreak which can be found [here](#).

With regards to disagreement resolution changes specifically, the Amendment Regulations temporarily modify current timescales for:

- Actions that local authorities and health commissioning bodies must take where the Tribunal makes non-binding recommendations in respect of certain types of health and social care matters within an EHC plan.
- Actions that local authorities, parent carers and/or young people must take in relation to mediation.
- Actions required to register a SEND Tribunal appeal.

Supporting vulnerable children and young people during the coronavirus outbreak

Guidance for education settings and local authorities about children supported through social care, with EHC plans or identified as vulnerable by their school or local authority can be found [here](#).

<https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-on-vulnerable-children-and-young-people>

Coronavirus (COVID-19): SEND risk assessment guidance

Guidance for special schools, specialist colleges, local authorities and any other settings managing children and young people with complex special educational needs and disability (SEND) can be found [here](#).

<https://www.gov.uk/government/publications/coronavirus-covid-19-send-risk-assessment-guidance>

Help children with SEND continue their education during coronavirus (COVID-19)

Advice for parents and carers looking after children with special educational needs and disabilities (SEND) can be found [here](#).

<https://www.gov.uk/guidance/help-children-with-send-continue-their-education-during-coronavirus-covid-19>

Ministry of Justice advice to court and tribunal users

You can find advice and guidance on attending Tribunals during the COVID-19 outbreak [here](#).

<https://www.gov.uk/guidance/coronavirus-covid-19-courts-and-tribunals-planning-and-preparation>

HMCTS operational summaries

HMCTS are providing a weekly operational summary on the operational position of courts and tribunals during the COVID 19 outbreak. You can find these summaries [here](#).

<https://www.gov.uk/guidance/hmcts-daily-operational-summary-on-courts-and-tribunals-during-coronavirus-covid-19-outbreak>

HMCTS information on Panel Composition

The Senior President of Tribunals issued updated practice direction relating to panel composition in the First Tier and Upper Tribunals during the current COVID-19 pandemic, published on the 19th March 2020. This can be found [here](#).

<https://www.judiciary.uk/wp-content/uploads/2020/03/General-Panel-Composition-Pilot-Final-for-Publication-1.pdf>

HMCTS telephone and video hearings during the coronavirus outbreak

Legal information about how HMCTS will use telephone and video technology is available along with detailed guidance on how to join an audio/video hearing. Please find this [here](#).

<https://www.gov.uk/guidance/hmcts-telephone-and-video-hearings-during-coronavirus-outbreak>

Frequently asked questions: disagreement resolution and coronavirus

Are SEND Tribunal hearings taking place during the Coronavirus lock down?

HM Courts and Tribunal Service has confirmed that its service will continue during the outbreak and that the tribunal is making efforts to conclude as many appeals as possible, particularly phase transfer reviews. [HMCTS issued advice on 14 April](#) that gives an overview of how the Tribunal system may change during the coronavirus outbreak. They also publish [a daily operational summary](#) of courts and Tribunals during this period and have provided an overview of [HMCTS priorities during the coronavirus outbreak](#).

Can I attend a SEND Tribunal hearing remotely?

Yes. You can attend a Tribunal by audio and/or video conference and HMCTS have developed specific [guidance on how to join telephone and video hearings](#) during coronavirus outbreak.

Are national trial SEND Tribunals continuing?

The national trial, which extends the power of the First-tier Tribunal (SEND), is continuing, until 31 August 2020. The trial provides that as part of a special educational appeal, the Tribunal will be able to make non-binding recommendations on the health and social care aspects of EHC plans. These recommendations need to be considered in the usual way by the responsible health and social care bodies and, where agreed, included in the final EHC plan. The modified S42 duty will then apply.

The Amendment Regulations will temporarily modify current timescales for actions that local authorities and health commissioning bodies must take where the tribunal makes non-binding recommendations in respect of certain types of health and social care matters within an EHC plan.

Are mediation services taking place during lock down?

Mediation services are still available during coronavirus using audio and/or video conferencing. Please speak to your mediation service provider to find out what processes they have put in place.

Are there changes to the timeframes in relation to mediation?

Yes. The time frames for considering mediation, commissioning mediation and the issuing of mediation certificates are also subject to the same amendment.

How can a parent carer or young person make a complaint during coronavirus?

The complaints mechanisms described in Chapter 11 of the SEND Code of Practice are unchanged, although the Local Government and Social Care Ombudsman has temporarily suspended all casework activity. In the first instance, families will often be able to use the local authority's or health commissioning body's complaints procedures. Local authorities and health commissioning bodies will need to ensure that these procedures remain effective for the current context. SENDIASS will continue to have a key role to play in supporting families in finding the best way forward.

Further advice and support

- [British Medical Association](#): Information about the impact of COVID-19 on the work, training, education, and wellbeing of medical professional.
- [British Association for Social Workers](#): Information hub to support social workers with advice and guidance issued by government, regulators and health professionals.
- [Contact](#): Information, advice and resources for parent carers and young people.
- [Council for Disabled Children \(CDC\)](#): Umbrella body for the disabled children's sector.
- [IASS Network](#) : Find your local Information, Advice and Support (IAS) service. They provide independent, advice and support for parents and carers, local authorities, social workers, young people and healthcare professionals.
- [Independent Provider of Special Education Advice \(IPSEA\)](#): Free and independent legal advice for families.
- [National Network for Parent Carer Forums \(NNPCF\)](#): The independent national voice of parent carer forums.
- [NHS Confederation](#): Regularly updated information and support for health and care leaders on coronavirus (COVID-19).
- [Preparing for Adulthood \(PFA\)](#): Provide advice and support to local authorities and their partners
- [SEND Delivery Support \(Mott MacDonald\)](#): Information, advice and resources for local authorities, health providers and other SEND practitioners.
- [SEND Tribunal Service](#): Information and latest updates about the SEND Tribunal service during coronavirus pandemic.
- [SOS!SEN](#): Independent and confidential telephone helpline for parents and others looking for information and advice.
- [Special Needs Jungle](#): Parent-led information and resources.
- [Young Minds](#): Provide advice about mental health and behaviour problems in children and young people up to the age of 25.