

URGENT ADVICE TO PARENTS GOING TO TRIBUNAL

We are receiving worried calls from parents concerning less than ethically professional tactics being used by some LAs and their tribunal officers or legal representatives.

Examples are given below:

1. **Issuing a “Working Document with a Proposed Statement”** (A working document is one for Tribunal .This requires parents and LAs to negotiate, as far as possible before the hearing day, the amendments to a statement via a working document where each side uses a Tribunal directed key.)

Its intention is blatantly obvious- to corner parents into thinking that they have negotiated with the LA and no longer in a position to appeal a Final Statement.

Our advice: Ignore it and send in your own views in the form of a letter. Do not fall for this attempted bullying. If, however, you have used that approach it does not prevent you from appealing if you do not think the Final Statement meets your child’s needs.

2. **Issuing a Working Document once an appeal has gone in and asking the parents to complete it quickly**

This again is an attempt to push parents into setting out their proposals for statement amendment as the result of an appeal long before all evidence is available.

Our advice: Ignore it and tell the LA you will respond once all the evidence is available including that of the LA.

3. **Producing a response to the parental reasons for appeal written in ridiculously legalistic style**

This is a showing off attempt to “dazzle” parents with wording that certainly would not pass a clear English test. This approach is often accompanied by reams of largely irrelevant legal information. Most of this will have little relevance when all you have asked for is a response to your set of reasons for appeal – a response that is often not really there or hidden in a cloud of pomposity.

Remember that your appeal is about your child's educational needs to be determined within a legal framework. It is not about reams of case law or extracts from the Code of Practice.

Our advice: Have a giggle and then check to see if somewhere in the “fog” there are responses to the points you have raised. **If you cannot understand what the LA representative has written simply ask Tribunal** (using a Request for Changes form) **to order the LA to produce an intelligible response in plain English and to address the points made in your appeal.**

4. Suddenly, weeks after the appeal has been registered, the LA wants to carry out its own assessments and wants extra time to get evidence in

This is a **disgusting ploy** that is on the increase. Its intention is to make a last ditch stand to try and undermine your independent evidence and/or to get a delay to the final date for evidence so there is no time for a working document to be negotiated properly before the hearing. A confused working document can result in an adjourned hearing on the day and additional costs to the parents who have paid their witnesses who now have to return at a later date. And, (guess what?), the LA rep. then isn't available for weeks!

It is quite amazing that an LA that has already based its decisions on its own evidence now wants to have another go because an appeal is now in. This is illogical and, in a sane and just world, such a demand should be turned down flat. It is not your fault if the LA did a bad job in the first place.

There is also the point that your child may already have had a recent heavy load of assessments and that further assessments could be harmful to the child's health. This never seems to worry the LA representatives but is obviously of concern to parents. If this is the case, then make the point strongly to Tribunal and provide any expert opinion that supports your concerns.

Our advice: **Consider this sudden flurry of activity on its merits.** Usually it is no more than LA skulduggery sometimes promoted, aided or abetted by less than “transparent” private lawyers. Put in your opposition firmly to the Tribunal if this is the case – and do it quickly.

Where you are appealing against refusal to carry out a Statutory Assessment, it is worth making the point that if the LA is now that keen to assess the child does that mean they are conceding the appeal?

On the other hand, if you have not been able to obtain an upto date set of independent expert evidence, you may decide that evidence from the LA professionals **may** be better than nothing.

In the event that you are ordered to make your child available for the LA we suggest that you ask (your request should be confirmed in writing) the professionals concerned to finish their reports with a **signed “Statement of Truth”**.

It is not unknown for LA professionals to contact you claiming that the Tribunal has ordered that the child shall be assessed **when in fact the Tribunal has not yet responded to the LA request**. Simply reply that you have seen no such order and wish to wait.

5. Production of massive pages of late evidence or a sudden change of ideas at the very last minute or even on the hearing day

This is far from unknown and again largely intended to force an adjournment (and, via additional costs, deter the parent from further participation) since several pages of new documents cannot be dealt with on the day.

Our advice: If the panel decides it cannot go ahead without this (some panels are more inclined to be strict and just about the evidence deadlines than others) then **request the panel that the LA shall pay your costs for the day and also provide a clear and annotated version of why, when, how, and where the “new” evidence was obtained in time for the adjourned hearing.**

SUMMARY

Fight on and don't be bullied. If you are still worried, ring our Helpline (020 8538 3731) or come into an Advice Centre if there is one nearby.