



## INFORMATION SHEET

# HOW TO WRITE REASONS FOR APPEAL

These guidelines are intended to be used by parents and carers to assist with an appeal against an SEN decision. The information covers a variety of situations and will need to be tailored to your particular circumstances. References to the 'Code of Practice' are to the *SEN Code of Practice* (DfES 581/2001).

In order to register an appeal against an SEN decision you need to complete the appeal form (contained in a document called *How to Appeal an SEN Decision: A Guide for Parents*) which can be downloaded from [www.sendist.gov.uk](http://www.sendist.gov.uk) or a hard copy can be requested by calling the SEN helpline on 01325 392 760.

The appeal form explains what you can appeal against and contains guidance notes explaining how to complete the form. In Section 5 of the form (currently on page 28) there is a box of about half a page where you are expected to state your reasons for appeal. Rather than use the box we suggest you write in it 'see attached document' and send a separate detailed 'reasons for appeal'. Its length will depend upon what you are appealing against and how much evidence you have. In most cases it will be several pages long.

### General points for all appeals

In order to appeal an SEN decision you must have a letter from the local authority giving their final written decision. The letter should also notify you of your right to appeal. If you have not been sent such a letter or the letter you have been sent is incomplete contact the local authority and chase it up.

When writing your reasons for appeal:

- Include the full name and date of birth of your child.
- State clearly what you are appealing against and the name of the local authority against whose decision you are appealing.
- Set out the document clearly, using headings, numbered paragraphs and bullet points (where appropriate).
- Include as much detail as you can about your child's special educational needs and how he/she is performing at school. You need to give a clear picture of how your child's education is being handled at the time of the appeal.

- Refer to recent expert evidence to support your case. Make it clear whose evidence you are using – give the name of any experts and state their area of expertise, for example, educational psychologist, speech and language therapist, occupational therapist, etc. Quote directly from their reports to illustrate what your child's needs are and the provision they require to meet those needs.
- Whilst some background information is useful, the focus should be on the present needs of your child.
- Include with your reasons for appeal written confirmation that you have notified the school in question in writing that you are going to request it to be named in Part 4 your child's statement. If you have been offered a place at the school you want named in the statement, then attach the offer letter. If your child already attends the school you want to be named in the statement, you should obtain written confirmation from the school that it can meet your child's needs.
- If you do not yet know the school you want named in Part 4, you can still submit your appeal and should describe the type of school that will be able to meet your child's needs.
- Your own views and those of your child are relevant and can be included but keep them brief.

## Outline of sample reasons for appeal

Here is a suggested format you could use:

### Reasons for Appeal

Name of child: \_\_\_\_\_

Date of birth: \_\_\_\_\_

The opening sentence should state what the appeal is against. In most cases it will be against Parts 2, 3 and 4 of a final statement or amended statement of SEN issued by the London Borough of ..... or ..... Local Authority. Also state the date the statement was issued.

#### 1. Summary of reasons for appeal

An initial paragraph summarizing the reasons for appeal is strongly advised. This would say, for example, that Part 2 of the statement fails to state clearly the needs of the child, and that Part 3 is inadequate and does not meet the child's needs. In most cases you would state that Part 3 is unlawful because it does not set out 'specific, detailed and quantified provision'. If the appeal is also against Part 4, then state briefly that the provision named in Part 4 cannot meet the child's needs because, for example, of the complexity of those needs, lack of appropriate provision, high levels of anxiety of the child, etc.

#### 2. Background

Keep this section brief. Use short paragraphs that might include the following:

- Where and when your child was born
- Who your child lives with now
- Brief facts about significant early development - including gaps, delays or unusual aspects of development
- When your child started school
- School moves
- The date the first statement of SEN was issued
- Significant assessments, including dates when your child was diagnosed with disorders/conditions or when problems were first brought to your attention. State who carried out the assessments and made the diagnoses
- Details of all therapy your child has received (for example, speech and language, occupational therapy) and for how long. State if therapy is on-going or, if it has stopped, when it stopped and why

### 3. Advice

List the independent advice/experts you will be relying on to support your case. These should include all or some of the following depending upon your child's needs:

- Educational psychologist
- Occupational therapist
- Speech and language therapist
- Psychiatrist

If you have a substantial amount of evidence, attach a full list with your reasons for appeal. If you have made appointments for your child to be assessed or are waiting for reports, then mention this - naming the experts and giving the dates of the appointments or when you expect the reports to be available. Then include a sentence stating that 'the full assessment reports will be produced at a later date when the SO1 and SO4 forms are submitted'.

If you are going to rely on more recent reports or evidence not included in the appendices to the statement, then say so. These might include school reports or reports and assessments provided for the most recent annual review.

### 4. Statement Part 2 (Special Educational Needs)

Part 2 of the statement should describe the special needs of your child and be specific to your child. Paragraph 8.32 of the *Code of Practice* states that Part 2 should describe 'all of the child's learning difficulties identified during the statutory assessment. It should also include a description of the child's current functioning – what the child can and cannot do'. If Part 2 is vague, out of date or lacking in detail and does not give a full picture of your child's difficulties, then say so. Refer to the *Code of Practice* and make it clear what changes you believe need to be made to Part 2 to reflect your child's needs. Use evidence to back up your case. This might be done by listing the changes you require - stating where further clarification is needed, which parts are no longer relevant, and what additional difficulties need to be added. A useful tip is to number all paragraphs of the statement by hand so you can refer to the numbered paragraphs in your reasons for appeal. If you do this, attach a copy of the marked-up statement.

If the local authority has relied on out-of-date evidence or has re-issued the statement naming a new school without assessing your child, you could also state that results of cognitive assessments and levels in other areas - for example, speech and language skills (if relevant) - should be included.

### **5. Statement Part 3 (Special Educational Provision)**

The first part of Part 3 of a Statement 'should set out the main objectives which the provision aims to meet'. They should be directly related to the needs identified in Part 2. In many cases, the objectives are so general they could apply to any child and can be criticised for that reason. There may also be some significant omissions, particularly if the needs of your child were not properly identified when the statement was drawn up or are disputed by the local authority. Request amendments to the statement to make the objectives specific to your child and target related. For example, an objective 'to develop literacy skills' could be expanded by adding 'so that he becomes a functional reader' and 'to develop language and communication skills' could be changed by adding 'to be able to use them in all aspects of daily life'.

Paragraphs 8.36 and 8.37 of the *Code of Practice* require local authorities to make specific, detailed and quantified provision. This means a properly worded statement should contain such details as the hours of provision and the particular staffing arrangements to be put in place. It should be clear from the wording of the statement who is to provide additional support and where and when such support will take place. For example, it might state that 1:1 support or individual therapy is to be provided or small group work. In each case, details of group size, type of provision, numbers of hours and qualifications, and/or experience of the staff involved should be specified.

Part 3 should also specify the type of learning environment your child needs, with details of school and class size.

If the wording of the statement is vague, then say so, stating that it cannot be relied on and would be unenforceable.

In writing your reasons for appeal, consider the wording of the statement and the expert evidence available to you, as well as any evidence used by the local authority, and determine what is missing from or needs to be clarified in the statement. You should list the additional provision your child needs and say why. As far as possible refer to and quote from the expert reports.

The *Code of Practice* (paragraphs 5:41 and 5:42 and 6:48 and 6:49) provides details of how to determine if adequate progress is being made both at primary and secondary phases of education. If 'current rates of progress are inadequate', say so and refer to the *Code of Practice* which states that 'it will be necessary to take some additional or different action to enable the pupil to learn more effectively. Whatever the level of pupils' difficulties, the key test of how far their learning needs are being met is whether they are making adequate progress'. Say why your child is not making adequate progress and indicate in what areas further support is needed.

## 6. Statement Part 4 (Placement)

When considering school placement, remember you are not entitled to 'Rolls Royce' provision. You need to effectively 'knock out' the local authority proposed school and show how the school you want named in Part 4 is more appropriate to meet your child's needs. If you have an educational psychologist who has visited both schools, use their evidence which should provide the reasons you need to support your case.

If you are looking for a specialist placement, include an initial paragraph saying that it is clear that a mainstream school is not appropriate and would not be able to provide the level of provision your child needs.

Find out as much information as possible about the proposed school and give reasons why it is not appropriate. Include a general description of the school, giving facts about numbers of pupils in school, how many have statements of SEN, class size, areas of expertise, etc. Comment on the environment: it may be a large, busy and noisy place and wholly unsuited to many children with SEN. If the school has a unit where it is proposed your child will spend some of his/her day, describe the unit and explain how you understand this will work. Use information obtained by your educational psychologist, from your own visit to the school and meeting with the SENCO or head teacher. Other sources of information might include the Ofsted report, school website and prospectus.

Give other reasons why the proposed school is not suitable. These might include:

- The school setting (even a quiet unit in a busy school will not be suitable for many SEN children)
- lack of on-site therapy
- therapy not being integrated into the classroom
- lack of experience and expertise of staff in dealing with children with your child's needs
- unsuitable peer group (the abilities and/or special needs of the other pupils may not be the same as those of your child)

If you have not decided on the school you want named in Part 4, you should describe the type of school you believe will be able to meet your child's needs. The information will be the same as that stated above but less detailed.

In order to support the placement you are looking for, you need to include a detailed description of the school in the same way as in the case of the local authority proposed school. You can submit as evidence the school prospectus, Ofsted report and any assessments or reports the school has carried out on your child. If you have an offer of a place, say so and attach the offer letter from the school.

Give the location of the school and state how far the school is from your home. If you are aware that there are other pupils in the school from your local authority who have transport to school this may be relevant. The costs of transport to the school for your child will probably be limited to the additional cost of collecting your child from the next nearest pupil being transported to the school.

You should include details of the fees of the school (including any additional costs of therapy or extra tuition or support).

Provide as much information as you can to show how the school will be able to meet your child's needs. Use expert evidence to support your case.

### **7. Conclusion**

Add a few short paragraphs by way of conclusion or summary of the main arguments. It may also help to indicate your willingness to meet the local authority before the tribunal to try to resolve the outstanding issues.

## **Documents to send with your reasons for appeal**

Any reports or expert evidence you have referred to in your reasons for appeal should be copied and sent at the same time as the reasons for appeal. It helps to include a list of documents if you have a substantial amount of evidence.

You are required to send certain documents with the appeal form. These are listed on the appeal form itself.

- In all cases, the letter from the local authority notifying you of its decision and your right to appeal must be included. In most cases, this will be the letter that was sent with the final (or final amended) statement.
- The statement itself needs to be sent together with all the appendices. Local authorities do not always send the appendices when they have amended or re-issued a statement (in cases such as school transfers). You may therefore need to copy the appendices from the original statement. If you have lost them, do not delay sending the appeal but request the local authority to provide copies and make a note of this on the appeal form or in your reasons for appeal.
- If you are appealing against Part 4, you must send written confirmation that you have informed the school you want named in Part 4.

*These guidelines are intended to assist parents writing reasons for appeal and do not constitute legal advice and should not be relied on as such. SOS!SEN is not a law firm and its helpers are not lawyers. Specific advice should be sought about your particular circumstances.*