

1. Refusal to assess

Law: Part 3 of the Children & Families Act 2014 – section 51 (2)(a) (subject to section 55 – mediation)

Burden: Parents

Evidence: Nature of SEN – diagnosis, professional reports/progress and attainment – IEP, school reports

Outcome: Yes or No

2. Refusal to amend or replace following Review or Re-assessment (under sect 44)

Law: section 51 (2) (e). All or any combo of Part B, F or I.

Burden: Parents

Evidence: IEP/Provision Maps/SEN information requests

Outcome: EHCP is amended or remains the same

3. Refusal to issue an EHC Plan

Law: Children's and families Act section 51 (2) (b).

Burden: Parents

Evidence: Special Education Provision that child needs from professionals reports, school cannot provide it without additional support

Outcome: Yes or No. Issue EHCP or Inclusion plan.

8. Refusal to Re-assess under Sect 44

Law: Part 3 of the CAFA 2014 Section 51 (2) (d)

Burden: Parents

Evidence: Nature of SEN – diagnosis, professional reports/progress and attainment – IEP, school reports

Outcome: Yes or No

Rights of Appeal for SEN

4. Cease to maintain EHC Plan

Law: Must maintain EHCP until tribunal. Section 51 (2) (f) under section 45 (1) of CAFA 2014

Burden: Local Authority

Evidence: IEPs/professionals reports. Double edged sword as progression could be because of provision. EP can comment on the overall environment the pupil needs. OT needs to identify sensory difficulties

Outcome: EHCP ceases or continues

7. Section F of the EHCP – Provision

Law: Part 3 of CAFA 2014 Section 51(2)(c)(ii).

Should be on evidence, not with a school in mind. Best to appeal section B & F together. Suggest not to appeal on Section F only unless extremely well drafted section B and vague Section F

Burden: Parents

Evidence: Professionals reports

Outcome: Amendments to the EHCP and Section F is developed from Section B

5. Section I of the EHCP – Name & type of School (including failure to name a school)

Law: Part 3 of CAFA 2014 Section 51(2)(c)(iii)/(iv). Mediation does not need to be considered for this section.

Burden: LA

Evidence: Costs of the particular LA schedule 27 (3) (3). The Public Purse (section 9).

Outcome: School or type remains the same or is changed

6. Section B of the EHCP – Needs

Law: Part 3 of CAFA 2014 Section 51(2)(c)(i).

Should be on evidence, not with a school in mind. Best to appeal Section B & F together. Suggest not to appeal on Section F only unless extremely well drafted section F and vague Section B

Burden: Parents

Evidence: Professionals reports

Outcome: Amendments to the EHCP

The child's parent or the young person has the right to request a particular school, college or other institution of the following type to be named in their EHC plan:

- maintained nursery school, maintained school and any form of academy or free school (mainstream or special)
- non-maintained special school
- further education or sixth form college
- independent school or independent specialist colleges (where they have been approved for this purpose by the Secretary of State)