



SEND Tribunal Powers to Make Recommendations on Health and Social Care in an EHC Plan

RANi Need to Know Guides | Mediation, Tribunals and Appeals support Advisory sheet 4

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A guide for parents, carers and young persons

Overview

Since **March 2018**, the SEND Tribunal in England has had extended powers under the **Single Route of Redress**. These powers allow the Tribunal to make **non-binding recommendations** about:

- **Health needs and provision** (Section C and Section G)
- **Social care needs and provision** (Section D and Section H)

These recommendations can be issued alongside legally binding decisions about the **educational parts** of an EHC plan.

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These powers apply only when the appeal includes the **education aspects** of an EHC plan (Sections B and/or F or the decision to issue a plan).

What Are the Sections of an EHC Plan Affected?

| Section | Type | Tribunal Power |
|---------|--|---|
| B | Special educational needs | Binding decision |
| F | Special educational provision | Binding decision |
| I | School/placement | Binding decision (except when only I is appealed) |
| C | Health needs | Non-binding recommendation |
| G | Health provision | Non-binding recommendation |
| D | Social care needs | Non-binding recommendation |
| H1 & H2 | Social care provision (under CSDPA and Children Act) | Non-binding recommendation |

When Can the Tribunal Make Health and Social Care Recommendations?

You must be:

- **Appealing the educational elements** of an EHC plan (e.g., Sections B and/or F, or a refusal to issue a plan), and
- Opting into the **Single Route of Redress** process when submitting your appeal.

Then, you may ask the Tribunal to:

- Consider the **health and/or social care sections** of the EHC plan, and

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- Make recommendations about **amending or adding** to those sections.

What You Can Appeal (and Ask for Recommendations On)

| Appeal Type | Can Include Health/Social Care? |
|---|---------------------------------|
| Refusal to issue an EHC plan | ✓ Yes |
| Contents of the EHC plan (Sections B, F, I) | ✓ Yes |
| Ceasing to maintain an EHC plan | ✓ Yes |
| Section I-only (placement only) | ✗ No |
| Refusal to reassess | ✗ No (not eligible under trial) |

How to Request Health and Social Care Recommendations

1. **Tick the box** on the **SEND35 appeal form** to opt in to the Tribunal's extended powers.
2. **Include evidence** to support the request for recommendations (e.g., NHS or social care reports).
3. **Clearly explain** in your appeal form what you are asking the Tribunal to consider regarding Sections C, D, G, or H.

Even though the Tribunal cannot make *binding* decisions about health or social care, many families find these recommendations carry significant weight.

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What Happens if the Tribunal Makes Recommendations?

- The **Local Authority and/or Clinical Commissioning Group (ICB)** must **respond in writing within 5 weeks** to both the family and the Tribunal.
- The response must explain:
 - **What action they will take**, and
 - **Why** if they choose not to follow the recommendation.

Although the Tribunal cannot force compliance, in practice, many recommendations **are followed** because failing to do so can lead to complaints, judicial review, or further legal challenges.

Why This Matters

Families often report that health and social care needs are:

- **Not properly assessed**
- **Minimised or omitted** from EHC plans
- **Inconsistently supported**

This extended right gives families a chance to:

- Have **holistic needs** considered
 - **Join up services** across education, health and social care
 - Improve **outcomes** for children and young people with SEND
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Examples of Health and Social Care Recommendations

Health (Section G)

- Speech and language therapy
- Occupational therapy
- Support for mental health conditions (e.g. CAMHS)
- Nursing care during the school day
- Medication administration or monitoring

Social Care (Section H)

- Short breaks/respite care
- A personal assistant to support community access
- Help with personal care or independent living
- Support under Section 2 of the Chronically Sick and Disabled Persons Act 1970

Useful Evidence to Include

To support your request for health/social care recommendations, gather:

- **Health care assessments or reports**
- **Social care assessments or EHCP advice**
- Letters from GPs, paediatricians, CAMHS, or therapists

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- Evidence of unmet needs, poor outcomes, or support gaps
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Practical Tips

- Use the **Working Document** (a shared editable draft of the EHCP) to propose detailed wording for Sections C, D, G, and H.
 - Be specific about what **needs and provision** you believe should be included.
 - If possible, get professionals to write clear recommendations about provision and explain the link to the child/young person's outcomes.
 - Consider **legal advice or advocacy** if your child has complex needs and multiple agencies involved.
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Legal References

- Children and Families Act 2014
 - Special Educational Needs and Disability Regulations 2014 (amended)
 - The SEND Code of Practice (2015) – especially Chapters 9 and 11
 - Judicial Review case law on social care and health obligations
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Summary

The Tribunal's power to make **health and social care recommendations** is a powerful tool for families. It allows for a **whole-child view** of need and provision, even if those recommendations are not legally binding. Using this process well —

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with strong evidence, clear requests, and follow-up — can lead to significantly improved support for children and young people with SEND.

Support and Resources

You can get further support from:

- **RANi** – Help with advice, support and impartial information
- **Local Offer** - Help with advice, support and impartial information
- **SENDIASS** – Local impartial information and advice service for parents and young people www.iasmanchester.org
- **IPSEA** – Independent Provider of Special Education Advice: www.ipsea.org.uk
- **Contact** – A national charity supporting families with disabled children: www.contact.org.uk

If you'd like help preparing your request or understanding your appeal options, RANi can provide guidance and templates.

Remember:

Always keep a copy of all correspondence you send, along with proof of postage or delivery. If you send documents by post, we recommend using a **signed-for** service. If sending by email, request a **read receipt** if possible.

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Get in Touch

If you need more information or have a question, we're here to help.

Email us: info@rani.org.uk

Please include:

- Your name
- Your child's name
- Your child's date of birth
- Your query

Or, if you prefer, you can fill out our online **contact form** and we'll get back to you as soon as possible.

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