

# What if we Can't Agree?



## A Guide for Parents & Carers

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[www.devonias.org.uk](http://www.devonias.org.uk)  
**01392 383080**

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The logo for Devon County Council, featuring a stylized green leaf with a white vein.

## What if we can't agree?

Sometimes you may disagree with others who support your child's needs or be unhappy about something they do or say.

This information is about what you can do if your child has special educational needs (SEN) or a disability and you are concerned about the help they are getting.

## What should I do first?

The first step to resolving disagreement is to talk to the other party.

If you are concerned about the help that your child has at school, the first step is to talk to their teacher, the **Special Educational Needs Coordinator (SENCo)** or the head teacher.

If you think the school is doing all it can, but your child needs even more help, you can ask the local authority for an **Education Health and Care (EHC) needs assessment**.

If your child has an Education, Health and Care plan you can also contact Devon County Council SEN 0-25 Team on [01392 383000](tel:01392383000) or email [specialeducation0-25-mailbox@devon.gov.uk](mailto:specialeducation0-25-mailbox@devon.gov.uk)

**Devon Information Advice and Support (DIAS)** can help you prepare for and attend a meeting, support you to write a letter of complaint or complete forms in relation to your concerns and talk to you about your next steps.

## What next?

If you still have concerns, you might be able to:

- seek some help to put your concerns forward
- make a complaint
- ask for independent disagreement resolution or mediation
- appeal against a decision

## Where can I get help?

**DIAS** can give you impartial information and advice about possible ways forward. **DIAS** might also be able to offer you independent support, or tell you about local or national groups that provide information and advice.

## What if I want to make a complaint?

All schools and Devon County Council have a complaints procedure which should be available on their website.

If you decide that the only way to resolve your issue is to make a complaint you will need to follow the procedure.

You will usually need to:

- have tried to resolve your complaint by talking to the relevant people at the school, college, setting, Local Authority, health services or Clinical Commissioning Group (CCG)
- put your complaint in writing, using the word 'complaint'
- be clear about all the issues you want resolved
- state what you want to happen
- give a reasonable time by which you would like a response.

If you are not happy with the outcome of making a complaint or feel that it has not been dealt with properly, DIAS can give you information on what to do next.

## What can I do if I still have concerns?

Most disagreements can be sorted out by talking with the other party. However, if your concerns have not been resolved at this stage or communications have broken down, there are other ways forward you can consider. These may include disagreement resolution, mediation or an appeal.

**DIAS** can help you by providing impartial information, advice and support, around any of these areas.

## Disagreement resolution and Mediation

The Children and Families Act 2014 requires all local authorities to provide independent mediation and disagreement resolution services to help when parents or young people cannot agree with the local authority or other providers about the special educational provision for a child or young person. Other providers include early years settings, schools, colleges and other post 16 provision.

The aim of the mediation and disagreement resolution services is to help young people, parents and carers, local authorities and others who are responsible for making special educational provision, reach an agreement that is in the best interest of the child or young person. The service is free and confidential and you can choose whether or not to use it.

In Devon this service is provided by **Global Mediation** who can be contacted on [0800 064 4488](tel:08000644488) or email [sen@globalmediation.co.uk](mailto:sen@globalmediation.co.uk)

Devon's **Local Offer** at [www.devon.gov.uk/send](http://www.devon.gov.uk/send) will give you more information around the service Global Mediation provides.

## What is disagreement resolution?

The disagreement resolution service arrangements are for all children and young people who have special educational needs. The service is there to help resolve disagreements, between parents or young people and the organisations that are responsible for making provision for children and young people with special educational needs. This may be about:

- how early years providers, schools and further education institutions carry out their duties
- the special educational provision for a child or young person
- health or social care provision when this is part of an **EHC needs assessment**

Disagreement resolution services can also be used:

- during EHC needs assessments
- while EHC plans are drawn up
- while waiting for Tribunal appeals
- at review
- during reassessments

**DIAS** or **Global Mediation** can help you decide if independent disagreement resolution is the right way forward.

## What is Mediation?

Mediation is a type of disagreement resolution for disagreements that can be appealed to the Special Educational Needs and Disability Tribunal.

Mediation is available to parents or young people if there is a disagreement about the local authority's decision:

- not to carry out an EHC assessment or re-assessment
- not to issue an EHC plan after an EHC assessment
- not to amend an EHC plan after an annual review or reassessment
- to cease to maintain an EHC plan

Your local authority must tell you about mediation and who to contact for the initial advice when they send you their decision.

There are time limits that apply when considering mediation and to register an appeal. Using mediation doesn't affect your right of appeal to the tribunal.

## Do I have to consider mediation?

If you wish to register an appeal with the **First Tier Tribunal (SEN and disability)** you first have to contact a mediation adviser and consider mediation.

This is called **mediation advice**.

Once you have contacted the mediation adviser you can choose whether to go to mediation or not. Whether you decide to use mediation or not prior to appealing to the first tier tribunal, you will need to get a certificate from the mediation service, to say that you have either considered mediation and decided not to pursue it or that you have entered mediation and that it has not been fully successful and would now like to proceed with an appeal.

## Exceptions

You can register an appeal to the tribunal without considering mediation first if the appeal is only about:

- the name of the school, or college, named on the plan
- the type of school or college specified in the plan
- the fact that no school or other institution is named.

In addition, you do not need to seek mediation advice if the appeal is solely about the health and social care elements of an EHC plan or, if it is a disability discrimination claim.

## What if I agree to mediation?

If you choose mediation, the local authority, or Clinical Commissioning Group must take part. An independent mediator runs the meeting.

When the meeting has finished the mediator will issue you with a certificate. If you still want to register an appeal with the First Tier Tribunal you can. You will need the certificate to register your appeal.

**DIAS** or **Global Mediation**, can help you decide if mediation is the right way forward for you.

## Do I have to choose between making a complaint, using disagreement resolution, appealing to the tribunal and mediation?

Usually you can follow more than one route. For example you can still make a complaint if you have already tried disagreement resolution. **DIAS** can explain your rights and the different procedures.

## Appeals

If you ask for a statutory EHC needs assessment or your child has an EHC plan and you do not agree with a decision by the local authority, (Devon County Council) you should let the 0-25 Special Educational Needs team know. They will listen to you and try to reach an agreement with you.

If you are still unhappy, you may have the right of appeal to the independent tribunal or you may want to make a claim for disability discrimination. For more information contact DIAS or:

HM Courts & Tribunal Service, Special Educational Needs & Disability Tribunal, 1st Floor, Darlington Magistrates' Court, Parkgate, Darlington, DL1 1RU

Tel: [01325 289350](tel:01325289350)

Email: [sendistqueries@hmcts.gsi.gov.uk](mailto:sendistqueries@hmcts.gsi.gov.uk)

**DIAS** can provide impartial advice, support and information. We can also explain your rights and the appeal process and help you prepare for tribunal, if this is what you decide to do.

### **Where can I get more information, advice or support?**

You can find out more about making a complaint about provision at your child's school on its website or by asking about its complaints procedure.

The **Local Offer** at [www.devon.gov.uk/send](http://www.devon.gov.uk/send) published by the local authority, includes information about the arrangements for resolving disagreements and mediation, and details about making complaints. It also tells you about your right to appeal to the Tribunal.

Chapter 11 of the **SEND Code of Practice** includes a lot more information about complaints procedures, disagreement resolution, mediation advice and mediation. <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

National organisations that can also provide information and advice on SEND include:

Coram Children's Legal Centre at [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)

Contact a Family at [www.cafamily.org.uk](http://www.cafamily.org.uk)

IPSEA at [www.ipsea.org.uk](http://www.ipsea.org.uk)

## How can Devon Information Advice & Support help?

**DIAS** can offer you:

- information about complaints procedures, disagreement resolution and mediation
- advice about what to do if you are unhappy with the support the school or college is providing
- details of other organisations, support groups and information services that might be able to help
- information and advice about your rights to appeal to the First Tier Tribunal (SEN and Disability)
- impartial advice and support through the process of making a complaint, disagreement resolution, mediation or appeal



Contact Devon Information Advice & Support on **01392 383080** or email **devonias@devon.gov.uk**

We have further leaflets and information online at:  
**www.devonias.org.uk**

You can also find us on Facebook

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