

# Comments on the latest SEND tribunal statistics

13 December 2024

The Special Educational Needs and Disability Tribunal has published its latest statistics for the period from July to September 2024.

These relate to appeals that challenge local authority decisions about the level of support to be provided to children with special educational needs and disabilities (SEND) via an education, health and care plan (EHCP).

During this period, there was a 55% increase in registered SEND appeals compared to the same period in the previous academic year.

The Tribunal notes the following reasons as contributing to the increase:

- The continued effect of the 2014 SEND reforms, which introduced EHCPs and extended the provision of support from birth to 25 years of age
- The expansion of the Tribunal's powers to make non-binding recommendations on health and social care (where there is a valid appeal on an educational element of the plan)
- The growth in the number of families seeking EHCP assessments and, subsequently, the rise in the number of children and young people with an EHCP.

Laura Thompson, Senior Associate specialising in SEND matters within the education team at UK and Ireland law firm Browne Jacobson, said: "These latest set of statistics make for alarming reading. While the factors suggested by the SEND Tribunal will have played a role, each of these have existed for some time – yet this is a problem that is increasing exponentially, with the 55% rise in appeals this year a significant uptick on figures of 24% and 29% in the previous two years.

"This is not a sustainable trend and only serves to further undermine the support available to SEND children. In most cases, Tribunal hearings are being listed at least a year after an appeal is registered, which, when considered in the context of a child's education, is huge.

"Throw in the recent Department for Education data showing that permanent exclusions were up by more than a third in the 2023/24 autumn term – with SEND pupils accounting for roughly half of these, and it's clear to see why four in five of respondents to our [School Leaders Survey](#) said they are dissatisfied with government SEND policy.

"Unfortunately, there isn't an obvious solution to the appeals issue. The Tribunal has recently [consulted](#) on a proposal for all 'refusal to assess' appeals to be automatically heard on the papers, with a view to cutting down waiting times, but this will do little to steady the flow of appeals when these types of appeals represented only 27% of the total number registered.

"So what else can be done? It is unlikely there is one 'right' answer. The previous government proposed mandatory mediation as part of its SEND review in 2022. This was met with mixed opinions, with some feeling this would only serve to further protract the resolution process.

"However, high-quality mediation can be an incredibly useful tool for reaching agreement and the current requirement to only 'consider' mediation in most cases means that, a lot of the time, it isn't accessed at all. Mandatory mediation may not be the answer, but something has to be done and perhaps it is worth a revisit."

## Key contact

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