



Special Educational Needs & Disability (SEND)

Information, Advice
and Support Service
for children, young people and parents

Information, Advice and Support (IAS) Service for Windsor and Maidenhead

What to expect – SEND Tribunal Support

1. Context

1.1 The SEND Code of Practice Chapter 2 explains the information, advice and support which local authorities should make available for children, young people and parents/carers, covering special educational needs (SEN), disability, health and social care. It also sets out the kind of help that may be required when things go wrong¹, which should include:

- supporting children, young people and parents/carers in arranging or attending early disagreement resolution meetings
- supporting children, young people and parents/carers in managing mediation, appeals to the First-tier Tribunal (Special Educational Needs and Disability), exclusions and complaints on matters related to SEN and disability
- making children, young people and parents/carers aware of the local authority's services for resolving disagreements and for mediation, and on the routes of appeal and complaint on matters related to SEN and disability

1.2 As a general principle, the Code of Practice acknowledges that the provision of information, advice and support should help to promote independence and self-advocacy for children, young people and parents/carers².

1.3 The Minimum Standards³ for SEND Information, Advice and Support Services operational functions include that, *"The IASS provides information, advice and support before, during and following a SEND Tribunal appeal in a range of different ways, dependent on the needs of the parent or young person. This will include representation during the hearing if the parent or young person is unable to do so."*

1.4 Within the statutory framework, there is no statutory bar to the IASS providing representation at Tribunal, equally there is no statutory duty for them to do so. It is for individual IAS Services to determine what support or representation is given at Tribunal, subject to the terms of their service level agreements and an assessment of the risks involved.

1.5 This document seeks to clarify the nature and extent of the support and representation the IAS Service for Windsor and Maidenhead may provide.

¹ 2.19 SEND Code of Practice

² 2.8 SEND Code of Practice

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<https://councilfordisabledchildren.org.uk/sites/default/files/uploads/files/Minimum%20StandardsFINA L%20with%20DfE%20DH%20logos 0.pdf>

2. Tribunal Preparation

- 2.1 The IAS Service promotes and supports positive joint working between parties in the interests of the child or young person. Working together at an early stage to explain and clarify issues can avoid misunderstandings or disagreements and so prevent escalation.
- 2.2 Where such intervention does not resolve a disagreement, it may be necessary to consider a more formal route such as disagreement resolution, Mediation or an appeal to SEND Tribunal.
- 2.3 Where a parent or a young person wishes to make a formal appeal to SEND Tribunal, the IAS Service may advise and support them in preparing for an appeal by:
- providing information about the SEND Tribunal's jurisdiction and processes
 - giving advice, and practical support where necessary, to submit an appeal
 - providing support and guidance on how to prepare for an appeal hearing
 - empowering parents and young people to advocate for themselves during the process and at the hearing
 - managing expectations of this process
 - signposting to other organisations, as appropriate

3. Tribunal Support (Supporter role)

- 3.1 Our involvement can include **support** during the appeal process if the parent or young person would not be able to access justice without this help. This might include:
- help to understand the Tribunal procedures, deadlines and other requirements as ordered by the Tribunal
 - giving impartial information and advice throughout the appeal and practical help, as needed, to respond to the requirements during the process
 - support to complete paperwork and manage the process yourself as far as possible
 - working with you and the Local Authority on a Working Document
- 3.2 If you do not have other support, and subject to availability, we may attend a Tribunal hearing with you as a 'supporter'. This would not usually involve speaking on your behalf, but we will provide moral and practical support, for example, by offering prompts to ensure you raise everything that you wish to cover and providing advice during breaks.
- 3.3 We will assess the need for support on an individual basis and we would ordinarily need to have been involved from early in the appeal process to provide useful support of this nature.
- 3.4 We can only support in this way when parents manage the process, keep the IAS Service informed of developments and take action when needed. Working with you as a Supporter, we would expect you to take overall responsibility for the appeal and to gather evidence for submission and prepare statements for the hearing, with our help as needed.

4. Representation

- 4.1 The IAS Service for Windsor and Maidenhead will provide **representation** at First Tier Tribunal only in limited circumstances, where this is deemed necessary, and a

parent/carer or young person would not be able to access justice without a high level of intervention and/or representation from the IAS Service.

- 4.2 If you are unable to represent yourself and cannot access legal representation or appropriate representation from any other source, we will offer further casework support, subject to availability/capacity. This might include:
- help to complete paperwork, set out your case and provide relevant evidence to the Tribunal
 - emailing paperwork to the Tribunal on your behalf if you are unable to do so (with your written consent). If necessary, we may manage correspondence with the Tribunal in relation to the appeal (for example, if there is a significant language barrier or difficulty in accessing technology)
 - liaising with the Local Authority/LA representative on your behalf (with your written consent)
 - support at the Tribunal hearing and, if you are unable to do so, speaking at the Tribunal on your behalf

4.3 To provide representation in the Tribunal hearing, the IAS Service will ordinarily need to have been involved from the start and throughout the appeal process.

4.4 It is important to stress that representing a young person or parent/carer at the Tribunal does not require legal qualification, nor would a member of IASS staff be acting as a legal representative.

5. IMPORTANT INFORMATION

- IAS Advisers have had some legal training appropriate to our SEND role, but we are not qualified legal practitioners
- If we act as ‘representative’ for you in a Tribunal appeal, we are not acting as a legal representative (such as a solicitor, barrister or legal executive)
- When completing paperwork, if you wish to name an IAS Adviser as a supporter or representative, please speak to us before doing so - we need to ensure that we can provide the right level of support for everyone who needs our help and must assess whether this level of support is appropriate in your appeal
- In all instances when submitting your appeal, please tick the box on the appeal form requesting correspondence to be sent to you, unless it has been expressly agreed that IAS will manage the correspondence for you
- The IAS Service Advisers are employed by the Local Authority, but the service operates at “arm’s length” from the Local Authority and ICS (Health). These agencies do not place any restrictions on our ability to undertake this work as an impartial service.
- Our service is free and available to residents of RBWM.
- If you instruct legal representation or a private advocate, the IAS Service will cease active involvement in your appeal.

Useful contacts

SEND Tribunal

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>

Coram Children’s Legal Centre - www.childrenslegalcentre.com

Legal Aid - www.gov.uk/legal-aid

Independent Panel for Special Educational Advice (IPSEA) - www.ipsea.org.uk