

Preparing a Refusal to Issue appeal

Appealing a **refusal to issue an EHCP** is a different (and slightly higher) bar than a refusal to assess. Here, you're showing that **the assessment evidence already available proves your child *requires* an EHCP**, not just that they *might*.

What You Must Prove

The legal test is:

Your child **has special educational needs AND requires special educational provision to be made through an EHCP.**

In practice, this means showing:

- Needs are **significant, complex, or long-term**
 - Support required is **beyond what a school can normally provide**
 - Without an EHCP, support will be **inconsistent or insufficient**
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The Core Argument (Keep Coming Back to This)

Your case should clearly show:


- 👉 **SEN Support is NOT enough**
 - 👉 **Provision must be specified and secured via an EHCP**
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Key Evidence to Build a Strong Case

1. The EHC Needs Assessment Reports (Your Foundation)

Use the reports gathered during the assessment, for example:

- Educational Psychologist
- Speech and Language Therapy (SALT)
- Occupational Therapy
- Medical advice

 What to look for:

- Descriptions of **significant difficulties**
- Recommendations that imply **high levels of support**
- Any wording that suggests specialist or intensive input

 Even if reports are vague, you can **draw out what they imply**

2. Link Needs → Provision (This Wins Cases)

This is the most important skill.

For every need identified, show:

- What support is required
- Why that support is **more than SEN Support**

Example:

Need: Severe expressive language delay

Requires: direct SALT interventions + daily structured support

Argument: current school resources alone cannot consistently deliver this

3. Evidence That School Resources Are Not Enough

Tribunal panels often ask:

“Could this reasonably be provided from the school’s existing resources?”

You need to show: **No**

Use:

- SENCO statements (if supportive)
 - Evidence of funding limits
 - Statements like:
 - “Requires consistent 1:1 support”
 - “Needs specialist input”
 - “Staff require additional training”
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4. Lack of Progress (Even With Support)

Very persuasive evidence includes:

- Data showing limited or no progress
- Reports stating:
 - “Progress remains below expected levels”
 - “Needs ongoing high levels of support”

 Especially strong:

Progress only happens **with significant adult input and support**, which school cannot consistently provide from within their own resources

5. Evidence of High and Ongoing Support

Show what is *actually* needed day-to-day:

- 1:1 or small group support

- Frequent interventions from a trained adult
- Significantly differentiated curriculum and learning activities
- Sensory and/or co-regulation support

Include evidence of school not managing support needs, such as suspensions, internal exclusions

👉 If support is:

- **Frequent**
- **Specialist**
- **Individualised**

...it strongly points to needing an EHCP

6. 👨👩👧👦 **Parent Evidence (Crucial and Often Decisive)**

Your statement should cover:

- The reality outside school
- Emotional impact (anxiety, distress, burnout)
- What happens after school (meltdowns, exhaustion)
- The level of support you provide at home

👉 Highlight:

School may be “coping” only because of hidden support or reduced expectations

7. ⚠️ **Hidden Support & Informal Adjustments**

This is often overlooked but powerful.

Include evidence of:

- Unofficial 1:1 support
- Reduced timetable
- “Managed” behaviour strategies

- Staff going beyond normal resources

💡 Argument:

The school is already exceeding typical SEN Support

8. 🧩 Professional Recommendations That Go Beyond Universal Support

Look for wording like:

- “Requires daily/weekly specialist intervention”
- “Needs individualised programme”
- “Requires close adult supervision”

👉 Even if not quantified, this supports your case

9. 🕒 Long-Term and Persistent Needs

Show that difficulties are:

- Not short-term
 - Not improving quickly
 - Likely to continue without structured support
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Structuring Your Appeal

A clear structure helps the tribunal follow your case:

1. Introduction

- Who your child is
- Summary of needs

2. Identified Needs

- From professional evidence

3. Required Provision

- What support is actually needed

4. Why SEN Support Is Insufficient

- The key legal argument

5. Evidence of Impact

- Lack of progress
- Emotional/educational consequences

6. Conclusion

- Why an EHCP is necessary
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Common Pitfalls

- Accepting vague wording in reports (“access to”, “opportunities for”)
 - Not explaining *why* school resources aren’t enough
 - Relying only on diagnosis (tribunals focus on **needs + provision**)
 - Missing the link between evidence and legal test
 - Underestimating parent evidence
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Key Mindset Shift

At this stage:

You are not asking for help for your child, you are demonstrating that **only a legally enforceable plan (EHCP) can deliver the support your child needs**