



SNAP PARENT CARER FORUM

CENTRAL BEDFORDSHIRE

Position Statement on The First-tier Tribunal Special Educational Needs and Disability

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SNAP PCF Role

SNAP PCF (Special Needs Action Panel Parent Carer Forum) is an independent group of parent carers with children and young people with Special Educational Needs and/or Disabilities (SEND). As part of the National Network of Parent Carer Forums, we promote parent carer participation, bringing parents and professionals together to improve local SEND services. We act as a link between families and local professionals, helping to shape and enhance the support available for children and young people aged 0-25; we do this through our [Partnership Agreement](#) with Central Bedfordshire Council, the BMLK ICB, and our local health providers.

Position Statements

SNAP PCF will be publishing Position Statements as and when the need arises for our forum to formally communicate our point of view on any issues that arise. These can be found on our [website](#)

Introduction

SNAP PCF is concerned about the increase in tribunals, the emotional and financial cost to families, the cost of staff time, and the cost to Central Bedfordshire Council fighting families. There is a better way to support families and ensure children and young people's needs are met without the current combative and damaging process.

The First-tier Tribunal (Special Educational Needs and Disability) is responsible for handling appeals against local authority decisions regarding special educational needs, including a refusal to:

- assess a child’s educational, health and care (EHC) needs
- reassess their special educational needs
- create an EHC plan
- change what is in a child’s EHC plan
- maintain the EHC plan

The Tribunal also hears claims of disability discrimination under the Equality Act 2010.

Evidence shows that Central Bedfordshire Council loses most of the SEND Tribunals brought against it. In 2024, 143 appeals were registered at Tribunal. Central Bedfordshire Council have provided the outcome of those appeals that were concluded in 2024:

- 34 resolved before hearing
- 26 found in favour of parents
- 6 found in favour of the LA
- 3 found in favour of both parties
- 2 withdrawn by parents

The cost to the council is ever-growing as Central Bedfordshire continue to lose the majority of cases. However, the costs to the families and children involved in the Tribunals against Central Bedfordshire are not just financial but also at an immeasurably emotional cost. The stress of Tribunals can lead to family breakdown, excessive stress, and ultimately, the children’s education suffers. Children and young people’s life chances are reduced when they stay in settings that do not meet their needs, which negatively affects their mental health and self-esteem.

Central Bedfordshire Council’s previous Assistant Director for SEND said last year,

“We know improvements are required to understand where the issues come from and consider the reasons why we’re not meeting a child’s needs in the first place”.

“That’s in the context of the specialist provision we’re developing. We know there are changes to make by working more closely with parent carers and keeping the child at the centre of decision-making”.

“I appreciate it’s taken a long time to get this up and running. There’s a piece of work delving deeply into this area to listen to and understand the lived experiences, and pick up on the glitches in the system”.

“Where are things falling down? What do we need to do differently? There’s a gap here and I’m not suggesting otherwise. We’re not rushing this piece of work because it’s so important to get it right”.

Therefore, Central Bedfordshire Council clearly recognise that they must learn from the outcomes from the SEND Tribunal and start to reflect upon practices within the EHCP team as this is resulting in costly decision-making. In this time of financial strain, Central Bedfordshire Council cannot continue to use the same methods currently employed within the EHCP team. If changes are not made and encouraged, the pattern of local authority losses at Tribunal will persist, resulting in substantial costs for all parties involved, particularly for families who endure the trauma of the Tribunal process.

Figures and Outcomes

As the LA issues more EHC plans, we anticipate the number of appeals registered to the First-tier Special Educational Needs and Disability (SEND) Tribunal will also rise dramatically.

The number of appeals registered in England in the 2023-24 academic year was 21,106 appeals. This is 54.53% up on the previous year.

In **2022/23**, Central Bedfordshire Council dealt with **79** appeals to the First-tier Special Educational Needs and Disability (SEND) Tribunal.

In **2023/24**, Central Bedfordshire Council dealt with **105** appeals to the First-tier Special Educational Needs and Disability (SEND) Tribunal.

Central Bedfordshire Council Tribunal Figures for **2024**

- Total Appeals Lodged in 2024: **143**
- Total Appeals Concluded: 66
- Appeals That Went to Hearing: 24
- Appeals Resolved Before Hearing: 42

The issue of SEND Tribunals was discussed at the [SEND Sub Committee meeting on 11th July 2024](#). The paperwork provided for that meeting illustrates Central Bedfordshire Council's acknowledgement that internal practises need to change to improve practises within the EHC Team:

“The Head of Quality Assurance and the Head of the EHC Team will oversee this work with additional resources that has been provided to assist with Ombudsmen and Tribunal outcomes. This role will provide support to review and analyse the data and assist Officers to determine if earlier resolution or decision making could have resulted in an earlier outcome without the need for the Tribunal and shape decision making moving forward. Learning and development workshops will take place every 6- 8 weeks, Quality Assurance and audit activity will test how well the learning is embedded.”

Being privy to the data in the above statement would be helpful. It states that “learning and development workshops will take place every 6-8 weeks”, so we would anticipate fresh data to be available at this frequency. As this statement was published eight months ago, there must have been many learning and development workshops which have yielded lots of data, we are excited at the prospect of this data being reported to SNAP PCF so we can track any

progress and to see evidence of the [6 C's](#) being embedded. SNAP PCF encourages transparency in the process. During the July 2024 Overview and Scrutiny SEND Sub-committee, Central Bedfordshire Council committed to including SNAP PCF as a dedicated participant. We are disappointed to say, we are still waiting for our invitation to attend these meetings.

With these additional resources being introduced to handle Tribunals it would be helpful to reflect on previous appeals, so lessons are learned. This would mean analysing positive and negative experiences resulting from a Tribunal from everyone involved. SNAP PCF has invited parent carers to report on real-life examples of Tribunals registered against Central Bedfordshire Council. This has produced evidence of things that went well and not so well. It is also essential to hear from families regarding Mediation and Way Forward Meetings, as these are opportunities to quell a dispute and avoid a stressful and costly Tribunal. If these meetings with parent carers do not successfully reduce the number of appeals, close scrutiny is needed.

Listening to parent carers about their child's SEND needs to be a more respectful process. As parents equip themselves with legal knowledge, the likelihood of a Tribunal will increase. Support from [IPSEA](#), [SEN SOS](#), [Contact](#) and [SENDIASS](#) alongside the training SNAP PCF provides for our members enables parents to become informed and empowered of their legal rights and how to exercise these.

Central Bedfordshire Council experiences a high rate of tribunal losses, prompting a clear need to take a deep dive into the reasons behind this statistic. With only six appeals found in favour of the local authority in 2024, one would anticipate the decision-making would be increasingly scrutinised.

The fiscal cost to the authority is currently being calculated by Central Bedfordshire Council so an accurate measurement of "value for money" can be established. SNAP PCF has presented Central Bedfordshire Council with questions about the costings of the Tribunal process. However, one must be mindful that the Tribunals financial cost is only one of the "costs" involved in the process, the impact on families wellbeing going through this traumatic experience cannot be underestimated.

Central Bedfordshire Council has advised that in 2024, they spent £53,091 on Tribunals. This is the equivalent of 24 annual households' Band D council tax spent on defending a council with a 4% success rate at Tribunal.

2024	Number of appeals that went to a hearing	CBC legal costs for the 19 appeals	Number of appeals where the tribunal found in favour of CBC	Average cost of 1 appeal
	19	£53,091	6	£2,794.26

Central Bedfordshire Council previously represented itself at Tribunals but has now stopped attending altogether, opting to hire Barristers instead. Parents are left to defend themselves—so why can't an EHC team manager represent the Council? What is their

budget for Barristers, or do they have unlimited funding? There's a clear imbalance: the Council has professional legal representation, while parents must either navigate the process alone, rely on SENDIASS for guidance, or cover the high costs of legal support and private reports themselves.

Central Bedfordshire Council is facing a harsh fiscal climate. Even if their original decision gets overturned at Mediation, then the lengthy appeal process (15 months) means that expenditure have been deferred. In the meantime, the child's needs are not being met, which has a significant impact on the parent carers and child's wellbeing In addition to their education and life chances being negatively impacted. This delay is an incentive as the council will save money until the Tribunal's date.

What evidence exists to indicate that senior local leaders are gaining insights from Tribunal outcomes? It is essential to conduct performance-related evaluations of managers' decisions.

We emailed Central Bedfordshire Council in February to ask a range of questions and thank them for answering these questions.

These are our questions:

Trying to accurately establish the financial cost of Tribunals to CBC is difficult as the costs are widely spread. It would therefore seem prudent to break down the different elements that incur a cost to CBC for SEND Tribunals:

- *Pathfinders*
- *EHCP Team*
- *CBC staffing*
- *Outcomes*

Please could you clarify the service level agreement the EHCP Team has with Pathfinders? Obviously, Pathfinders is part owned by Central Bedfordshire Council so the information should be very accessible.

Please clarify what constitutes work carried out under the Pathfinders contract/agreement and what work would incur an additional charge? (We imagine that paperwork submitted to Tribunal for SEND cases would be part of the agreement as well as general advice given to the EHCP Team.) However, given that a lot of cases that are registered with Tribunal, are subsequently decided before a hearing, then we guess these cases do not warrant an additional cost from Pathfinders?

Seemingly, we would imagine that all cases that progress to a hearing adhere additional costs from Pathfinders. We understand that Pathfinders subcontract Barristers for the hearings, so these costings passed onto CBC would be helpful too.

To summarise and to be helpful, we have outlined specific questions that make it easy for you and your team to request from Pathfinders:

- 1) *What constitutes as work carried out by Pathfinders for the EHCP Team under the existing agreement/contract and what work would incur an additional charge?*

CBC Reply:

- Pathfinders provides all legal support, including:
- Preparing case statements
- Handling written correspondence between parties on behalf of CBC
- Communicating with the SENDIST Tribunal on behalf of CBC
- Attending pre-hearing meetings and Telephone Case Management meetings
- Additional charges occur for Barrister representation at hearings.

- 2) *What were the additional charges for Pathfinders April 2023 – March 2024 incurred for the EHCP Team?*

CBC Reply:

- £53,091 in total
- Covers 19 Tribunal hearings
- In addition to the existing contract between CBC and Pathfinders

3) *As you confirmed in your previous email, the statistic, The overall cost to the Local Authority for Tribunal work during the 2023-24 financial year was £53,091, was provided by Pathfinders.*

Please could you and your team contract Pathfinders to obtain the following:

- a) *Please confirm how many hearings were part of these costs?*

CBC Reply:

- 19

- b) *Please could you confirm whether these costs include any outsourcing for a Barrister?*

CBC Reply:

- Yes

- c) *On how many occasions was a Barrister used during these dates?*

CBC Reply:

- 19 times

- d) *Please could you confirm whether this cost is in addition to the existing contract between CBC and Pathfinders during these dates.*

CBC Reply:

- Yes

EHCP Team

Due to the increase in Tribunal numbers, a full-time post has been created to deal with the cases.

- 1) *Will this officer be required to attend cases that go to a full hearing?*

CBC Reply:

- No, hearings are handled by Pathfinders/Barristers. The officer is not required as a witness.

2) *How will the success or lack of success of cases at Tribunal be measured in terms of team officer's performance?*

CBC Reply:

- Not held

3) *How many members of the EHCP team normally attend a SEND Tribunal (either in person or virtually)?*

CBC Reply:

- None, as Pathfinders/Barristers handle representation

4) *Has there been any dismissals of decision-making staff in the EHCP team due to poor performance/lack of success at SEND Tribunal?*

CBC Reply:

- Not held

5) *What are the numbers of cases that agree to go to Mediation?*

CBC Reply:

Month	Mediation Referrals	MIAS Delivered	MIAS Outstanding	Mediation Requested	Certificate Requested	PYP Undecided	Mediation Meetings Held
Jan	21	14	2	10	4	1	12
Feb	17	17	0	10	6	0	3
Mar	16	17	0	8	7	0	12
Apr	17	16	1	13	3	0	6
May	21	15	7	10	5	0	8
Jun	17	24	0	20	4	0	7
Jul	16	16	0	11	5	1	7
Aug	9	9	0	4	4	0	3
Sep	21	16	5	9	7	0	6

Month	Mediation Referrals	MIAS Delivered	MIAS Outstanding	Mediation Requested	Certificate Requested	PYP Undecided	Mediation Meetings Held
Oct	14	16	3	6	10	0	6
Nov	12	13	2	6	7	0	7
Dec	11	13	0	9	4	0	4

6) *Are Pathfinders consulted as a matter of course of all Mediation cases?*

CBC Reply:

- Not held
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Central Bedfordshire Council Staffing

In 2021, the Department for Education confirmed it will be continuing the extended powers given to the SEND Tribunal since April 2018 to hear appeals and make non-binding recommendations about health and social care aspects of EHC plans, provided those appeals also include education elements. As current arrangements that have been in place since April 2018 are continuing, with no new requirements introduced, LAs, health commissioning bodies and parents and young people should follow the same procedure for the Tribunal as has been in place since April 2018. From 1 September 2021, the Tribunal appeals which include health or social care aspects, will be known as ‘extended appeals’.

1) *How many meetings were held between April 2023 – March 2024 with social care colleagues regarding cases that were registered at SEND Tribunal? (105 Tribunals registered)*

CBC Reply:

- Not held

2) *How many times did CBC social care colleagues attend hearings between April 2023-March 2024? (24 hearings)*

CBC Reply:

- Not held

3) *How many times did EP's attend hearings for CBC between April 2023-March 2024? How many of these EP's were locums and what additional costs were incurred?*

CBC Reply:

- Not held

4) *How many times did health care colleagues attend hearings between April 2023-March 2024?*

CBC Reply:

- Not held

5) *How many times are social care colleagues involved in Mediation meetings between April 2023-March 2024?*

CBC Reply:

- Not held

6) *How many times are health care colleagues involved in Mediation meetings between April 2023-March 2024?*

CBC Reply:

- Not held

Outcomes

Between April 2023 and March 2024, CBC saw 105 Tribunals registered. (24 went to full hearing. LA decided to defend 85/105).

At the SEND Sub-Committee on Thursday 11 July 2024, the following results were published regarding these figures:

- 12- favour of parents
- 2- LA win
- 3- conceded by LA before hearing
- 26- settled before hearing
- 2- in favour of parents and LA as well
- 4- withdrawn by parents
- 5- awaiting decision
- 31- awaiting to be heard

1) *Please now provide the decisions regarding the 31 cases that were "awaiting to be heard"*

CBC Reply:

- **No response**

2) *Please provide a breakdown for the reasons for the SEND Tribunal for the 105 cases that were registered.*

CBC Reply:

Breakdown of reasons for the 105 registered Tribunal cases

- Refusal to Assess: 21 cases

- 8 resolved before hearing
- 11 found in favour of parents
- 2 found in favour of the LA
- Refusal to Issue: 5 cases
 - 1 found in favour of parents
 - 4 resolved before hearing
- Cease to Maintain: 1 case
 - 1 found in favour of parents
- Sections B & F: 4 cases
 - 3 found in favour of both parties
 - 1 found in favour of parents
- Sections B, F & I: 14 cases
 - 6 resolved before hearing
 - 7 found in favour of parents
 - 1 found in favour of the LA
- Section I only: 25 cases
 - 15 resolved before hearing
 - 5 found in favour of parents
 - 3 found in favour of the LA
- Extended Appeals (Health & Social Care): 3 cases
 - 1 resolved before hearing
 - 2 withdrawn by parents

3) *How many SEND Tribunals April 2023-March 2024 resulted in a child receiving a place at an out of county residential setting?*

CBC Reply:

- Residential placements: 0 cases

4) *How many SEND Tribunals April 2023-March 2024 resulted in a child receiving a place at an out of county day school setting?"*

Central Bedfordshire Council reply:

- Day school placements: 3 cases
- Additional 6 placements were made but not explicitly linked to Tribunals.

We believe parent carers and the wider community in Central Bedfordshire would like further explanations to these answers. As Tribunals are being discussed at the [SEND Overview and Scrutiny Sub -Committee](#) on the 13th of March 2025. It appears from the answers that have been received little scrutiny occurs around the appeals process.

SNAP PCF is committed to giving parent carers a voice. We appreciate and would like to thank the parents who have shared their experiences with us through meetings and written feedback. Their experiences have been captured in quotes and case studies.

These parents have children with unmet needs—children who require more than what a mainstream setting provides. They seek support and, when lucky, find dedicated professionals like SENCOs, Teachers, Health Practitioners, or Educational Psychologists who go the extra mile. Yet, even with this support, they often struggle to secure an EHC Needs Assessment or a finalised plan with SMART outcomes that genuinely address their child’s needs.

Instead of receiving timely help, parents are left navigating a system that forces them to mediate, fight, and endure long waits—often over a year to reach a Tribunal date. Meanwhile, their child's needs remain unmet.

Way Forward Meetings

The purpose of the Way Forward Meeting is to discuss the reason for the decision to refuse to assess or issue a plan and find ways to work together in the child's or young person's best interest moving forward.

The EHC Coordinator cannot change the decision at the Way Forward Meeting; however, it does provide the opportunity to discuss further evidence that would be required so that a subsequent EHC needs assessment request can be made, should parents or the school wish to do so. SNAP PCF would like to understand what the threshold is to accept new information being provided.

The meeting also provides an opportunity to discuss the provision that is already available in school to support the child or young person, and agree on how their progress, will continue to be monitored and reviewed. A 'Way Forward' meeting is not part of the statutory process and parent carers are not obligated to attend this meeting before appealing.

What have parents told us.

“It feels like a trick. They (CBC) gave a positive attitude at the meeting following refusing to assess for an EHCP however, on reflection everything they suggested we had previously tried and it hadn’t worked. They said my child is fine in school, yet they are not fine at home nor at the weekends where they have trouble eating and sleeping. I have missed the timescales for Mediation, the additional funding into school never materialised. My child and I are now in limbo, if I try again for an EHCNA this will mean Mediation, Tribunal and over a year of fighting. I can advocate well for other people, I am struggling to find a way to advocate for myself as the amount of work and stress to go through is insane. There should be an independent person making these decisions”.

“When parents make specific requests in EHCNA, EHCP Annual reviews etc, where CBC cannot/will not accommodate these requests, why won't they just communicate with families at the first instance? We are constantly having to chase CBC and it's extremely frustrating. It makes us feel there is a level of incompetence where the LA avoid having difficult conversations”.

Mediation

Parents and young people have the right to [Mediation](#) if their local authority (LA) makes a decision that can be appealed to the SEND Tribunal or changes an EHC plan.

Mediation is a free way to resolve disputes without going to court. An independent mediator helps both sides discuss the issues and find a solution.

If parents choose Mediation, the LA must arrange it within 30 days and send someone with the authority to make decisions. If they can't meet this deadline, they must inform the Mediation adviser, who will issue a 'deemed Mediation' certificate. This allows you to appeal to the Tribunal while waiting for Mediation.

Here are some of the quotes from parent carers who wanted to tell us their experiences. Part of our recommendations are to urgently review the Mediation process as we are concerned at the feedback we have received.

“My personal view is that they are pushing needs assessments to Tribunal to save money. There was honestly no thought or care about My child and what was best for them in any of this.”

“When I spoke to the Mediation lady, she was great but she did not understand why the LA weren't just giving us a specialist school when we had so much evidence. In the end after speaking to the LA she agreed with us going to Tribunal! My child is still out of school and waiting for Tribunal in late spring.”

“Ours was a disagreement and resolution meeting around securing section F so no Tribunal in this case. It did lead to pre action proceedings and months of litigation.”

“Mediation was draining, depressing and demoralising. We had so much evidence.”

“Mediation meeting was a waste of time - despite CBC claiming to agree to the revised provisions they did not add them to the EHCP - Mediator seemed powerless to do anything despite previously verbally supporting our request during a phone call a few weeks before the Mediation meeting.”

“Mediation is there to scare parents away, it is a LA tactic to work against parents, they refused to listen and were totally combative”.

“We were advised against Mediation for our first appeal because there was no one to make a decision attending. It was very obvious that CBC would not have changed their position on our independent EP report either so it would have been a waste of time.”

“At Mediation the EHC manger dismissed my NHS CAMH report and said it wasn't relevant.”

The LA always confirm they will send a decision maker, but the 'decision maker' is usually the Senior SEND officer whose only decision making ability is 'No the LA's position is this' Or 'I can take it back and discuss with my manager and feedback/take to panel'all of which are no decisions at all.

"I was told at Mediation that communication is basic and therefore Speech and Language Therapy (SALT) has no place in an EHCP it is a waste of time."

"In their refusal, the authority agreed that my child has needs (so the first part of the test was met), but on the second part they said that they had not received enough evidence from the school to prove they were going beyond the SEND support stage. The school supported my application, and evidence was provided by them to submit to the LA, this alone should have been enough to demonstrate that my child may need a needs assessment. I attended the Mediation call, which in my opinion was a waste of time. The LA representative in the way forward meeting did not attend the Mediation call so there was a disconnect straight away. There was no genuine intention to find a way forward for my child as they had already made their mind up before attending the meeting. The school tried to explain the support needed but the LA kept dismissing it as not over SEND support stage."

One of our parents made an excellent suggestion

"Perhaps something that could be more beneficial for everyone and a better use of everyone's time is if the SEND team go into the meeting with a few suggestions on a way forward to present to families in the meeting? They are provided with the reason for Mediation request enough in advance and could liaise with the services to get suggestions? It just seems more productive than going in and digging their heels in, as it just causes further relationship breakdown. Not sure if that's something they'd consider and I appreciate in the short term it's a little more work but in the long term if it prevents Mediation failure and reduces the amount of appeals to tribunal, it might be worth looking at?"

Many parents who contacted SNAP PCF inform us that Mediation was a traumatic experience used to shut down conversations and prevent parents from continuing to Tribunal. Some parents told us they were scared to be identified in our report as they were concerned this would impact on their child's EHCP. We have reported our concerns to Central Bedfordshire Council.

The Director of Central Bedfordshire Council Children Services has told SNAP PCF that she is committed to improve the Tribunal process.

We also contacted the NHS Designated Clinical Officer because parents told us the EHC Team was dismissing NHS reports. In less than a week, the following process was put in place, demonstrating the impact SNAP PCF can have working in partnership.

"I have requested that if the team know that health reports are due to be discussed at mediation and parents' consent, that advice is sought from the DCO/appropriate health professional re any health information that may be in dispute. I have also requested that if health information comes up during mediation that requires further exploration/clarification an action is taken (with parental consent) to contact myself or my deputy. We

have done this in the past and the team seemed happy to have this as a clear action moving forward. I am also happy to support with mediation for CYP with complex health needs where appropriate.” Designated Clinical Officer

We did hear two parent carers positive feedback

“I had a Mediation meeting last year for my child's EHCP. I was asked to supply the requests I was making in advance so that they could look at them. The member of staff who came to the meeting was not sufficiently senior to make decisions - so it wasn't really Mediation as there was no negotiation - but she had arranged for a lot of the changes I had requested to be approved so the meeting was basically her telling me about them. So although it wasn't really Mediation, it did result in improvements to my daughter's EHCP.”

“In both of our section I Tribunals the LA did concede prior to the hearing (they still took us to a hearing because we were wanting therapies included in section F) Pathfinders were always courteous in their correspondence. We received the paper court bundle on time.”

Some possible factors to why Mediation is not working in the way it should.

- LA not providing a date for Mediation so that it takes place too late (after an appeal is registered)
- LA not sending a person who is empowered to make decisions
- LA representative is not genuinely empathetic and trying to seek areas of agreement
- Lack of suitable provision results in LA trying to defend the indefensible
- Parent is now unwilling to compromise as it is difficult to engage in conflict resolution if the trust has been broken

Impact on families

The impact cannot be underestimated, LA officials power is substantial and is not always used fairly. Parents have told us of the constant need to chase for their emails to be replied to, and then only half of the email is answered, and the ongoing chasing continues. We are concerned to hear this as during 2024, SNAP PCF highlighted the lack of communication and the impact this was having on families. Following our Test the Temperature survey report, holding a workshop for professionals, each service now has a commitment statement on how their teams will communicate using a [6C's framework demonstrating 'Communication, Coproduction, Care, Consistency, Clarity and Commitment.](#)

“My wife has had to reduce her hours at work, we have also spent a few thousand pounds on private reports which CBC are refusing to include in our child's EHCP.”

“I have had to leave my job as trying to support my child and research their rights whilst going through the Tribunal process and constantly fighting CBC.”

“We are commissioning a private SALT now for our child's assessment at a cost of £1400. We already spent £1800 on private clinical psychologist for assessment and diagnosis and £600 for a sensory OT - this was originally for school to listen and implement strategies, some of which they did, some not. No holiday for us this year! £££ and my little girl is still at home.”

“We will never get over the toll the Tribunal has had on our family. Emotionally, financially, mentally and physically we are drained and exhausted. We won at Tribunal on every point and our son now receives the education he deserves and that is paramount. If only CBC had listened to us from the start, but their arrogance and unlawful tactics are central to their behaviour and this is unacceptable.”

Observations

While talking to parents, the overriding themes occurring are children and young people showing high anxiety levels, Emotionally Based School Non- Attendance (EBSNA), and masking during the school day, creating burnout. There has been a lot of joint work over the past year and a half creating toolkits and approaches for schools and parent carers that are almost ready to be published following a trial period in some schools. Central Bedfordshire Council experiences a high rate of tribunal losses, prompting a clear need to take a deep dive into the reasons behind this statistic.

There is limited understanding of masking, particularly in girls. It's essential to improve knowledge and support for children and young people as part of our recommendations.

Elective Home Education

Many neurodivergent children and young people being elective home educated or on EOTAS/EBSA have been let down by the system, often lacking suitable school placements with parents fighting the LA through tribunals for years.

Another observation is how many parents are deciding to home educate their child (not electively, it is being forced upon them) due to no longer being able to fight through the system. Do Central Bedfordshire Council track this figure, if not should they? One parent told us

“CBC know that many parents will be intimidated and therefore walk away. It is a race to the end to see if the parent is resilient enough to make it to the end”.

Panels

We also heard feedback about the frustrations of the amount of decisions making panels, how often cases were having to be reviewed at panel, the lack of transparency about decisions, that parents are left feeling ‘done to’ at panels.

“There is no transparency on the Placement and Resource Panel process for parents. My Senior SEND officer didn't at any point explain to me who was on the panel, what expertise they bring, what the time line was, nothing.”

“We have had to go to a couple of panels for our Alternative Provision as it is always temporary, I send an email asking for points to be made, there is no feedback, no scrutiny, no transparency”

Parents have also told us they are aware that documents need to be submitted to Panel and the EHC officer makes the case - herein lies the potential single point of failure.

- *It's up to the officer to upload supporting documents - what documents are these and how can assurances be made to parents that the documents they believe are important to decision making are uploaded?*
- *The EHC officer reported being questioned at length in the request - but what happens if that EHC officer has recently changed, has had very little correspondence with the family/CYP so does not have a good understanding of the reasoning (including clinical reasoning when it comes to requests for section F health/ social care provision as this is out of their scope of practice).*
- *What is the standard operating procedure of the Panel?*

We also heard from parents who spoke about going through Mediation and continuing to Tribunal once they were near the date of the Tribunal, then Central Bedfordshire Council conceded without any new information provided. The parent observed

“So they dragged this out to see if we would be intimidated enough to back down, no concern about my child or what they are putting us through as a family.”

With demand for special school places exceeding supply, appeals to the First tier SEND Tribunal will inevitably rise. Central Bedfordshire's push for greater inclusion in mainstream schools will further drive appeals, as many children and young people with SEND struggle in these environments, impacting their well-being and learning. As long as the Council maintains this rigid approach, appeals will continue to increase. A more flexible, child-centred strategy is essential. Greater investment in SEND education is urgently needed to meet children's needs and reduce appeals and costly out-of-county placements.

SNAP PCF has heard from parent carers that Central Bedfordshire Council is refusing to accept the findings of privately commissioned reports. Some parents have shared experiences of the EHC Team dismissing or belittling reports they have paid for and being told that private reports must 'triangulate' with NHS reports to be considered.

Previously, SNAP PCF, Central Bedfordshire Council, and the Designated Clinical Officer worked together to coproduce clear guidance on how private reports are viewed. We have now contacted Central Bedfordshire Council to check if the [Private Assessment and Reports Information Document](#), as shown on the Local Offer website, is still in place. Central Bedfordshire Council are now reviewing this.

Currently there is no indication that Central Bedfordshire learn anything from previous Tribunals. Special Needs Jungle reports a 55% rise in 2024 SEND Tribunals nationally. This has a 1.3% success rate and an annual cost of £153 million. This trend cannot continue. Central Bedfordshire residents deserve a better value approach.

Conclusion

One simple solution to reducing the number of Tribunals to the First Tier SEND Tribunal is to tackle the problem at its source, which will save everybody time and money.

The current DoE Change Programme states that “Mediation should be strengthened”.

How is this proposed, and how does it differ from current working methods?

The opportunity of a Way Forward Meeting or Mediation should be encouraged as a positive forum to resolve a dispute, thus avoiding a costly Tribunal. However, Central Bedfordshire Council will frequently not move from their stance, pushing parent carers to an inevitable tribunal situation. This approach is not healthy. What training does the EHC Team undertake to ensure a professional approach is used? [Kids Mediation](#) who the LA commission offer training, something we believe should be considered.

When parents conclude that the only way to secure their child’s suitable education is by Tribunal, they often are at a point of extreme exhaustion and burnout. Many families are not financially positioned to pursue a Tribunal, while others do not have the energy or any “fight” left in them. This emotional, financial, and weary state that families find themselves in when dealing with the EHCP department needs to be recognised so appropriate communication happens.

We welcome Central Bedfordshire Council’s suggestions to learn from cases that have gone to Tribunal. The managers deciding whether to defend a decision at Tribunal need to have their performance statistics published, illustrating the quality of the staff making huge decisions with potentially costly repercussions. Lessons need to be learnt, and no one is above the law. We would, however, appreciate a timeline for when this work will be completed so that SNAP PCF can be included as an equal partner with this work. We have previously asked if we could work through the findings of a report commissioned by the Administrative Justice Council [Special Educational Needs and Disability: Improving Local Authority Decision Making](#) some of the observations in this report are on page 10

- *LAs are not making strenuous enough efforts to reduce the number of appeals that are being registered with the Tribunal. This is not in the interests of children and young people, the LA, or the Tribunal in relation to time, cost, and unnecessary distress, anxiety, and uncertainty.*
- *Once appeals are registered, LAs are not undertaking a full reconsideration of the case and conceding cases appropriately, despite the almost certain knowledge that their decisions will be overturned. There are no figures available in relation to the number of cases conceded by LAs post registration of an appeal; however, the fact that the success rate on cases that go on to be decided is so high is suggestive of poor decision- making in relation to conceding/ contesting appeals.*
- *LAs are not routinely amending their approaches to first instance decision- making in order to bring them into line with the approach of the Tribunal. As we will explore in Section 1.3 below, in some cases the Tribunal is finding that LAs are not applying the law correctly. In other cases, it is likely that overturned decisions are driven by decisions on the facts of a case, including the provision of new or more detailed*

evidence to the Tribunal. Both in relation to legality and the thoroughness of evidence gathering, this suggests there is room for improvement in current approaches by LAs.

The increase in appeals to the Tribunal indicates that parent carers are challenging decisions made by the EHC team. Statistics show that Central Bedfordshire Council frequently loses cases at the SEND Tribunal, which suggests issues with the decision-making process. Questions need to be asked about the performance of the Barristers commissioned by Pathfinders. We have learnt that the average cost for a Barrister to attend a CBC appeal is £2,794.26. This implies that a junior or less experienced Barrister might be used due to the unusually low cost. It would be interesting to know how Central Bedfordshire Council monitors and evaluates the success rate of their legal representation.

It is vital that Central Bedfordshire Council ask what lessons are being learnt from these Tribunals and what service improvements are being driven? Unfortunately, we believe that Central Bedfordshire Council will blame the Tribunal itself for the problem, or a lack of money, whereas really the fundamental problem sits with the decision makers in the EHCP team.

The number of EHCPs is going to increase in line with national figures. Central Bedfordshire Council does not have to continue with the increased number of Tribunals if bold and sensible decisions are made. Central Bedfordshire Council needs to be proactive and encourage efficient communications between families and the LA and not use resources to intimidate and undermine the resilience of all involved. SNAP PCF has continually highlighted issues around communication and has worked to coproduce [commitment statements in how each service will communicate](#), we will be monitoring communication and encourage parent carers to keep us updated via our [feedback form](#).

The new Director of Children Services is committed to improving the Tribunal process for parent carers by working with SNAP PCF. The Service Director for Education and SEND meets with the SNAP PCF Director every two weeks, allowing SNAP PCF to become more closely and actively involved.

SNAP PCF is an established and respected Forum; we have always said, 'Great things can happen when we work together as equal partners.' We hope the positive first signs of working together continue and we can make some meaningful change for our families.

Recommendations

- A deep dive into the Tribunals including SNAP PCF as equal partners
- To set a date of when this work will start, who will be involved and when it should conclude
- Review the findings of this report [SEND-Improving-Local-Authority-Decision-Making.pdf](#)
- Review Complaints
- Review Way Forward meetings

- Review Mediation meetings
- Review our case studies
- Review the Tribunal findings of all cases in the past 12 months.
- To publish the EBSNA toolkits as a matter of urgency
- To improve understanding of professionals around masking and Autism in girls
- Make recommendations and report these to the SEND Overview and Scrutiny Sub-Committee
- Review the Panel process to ensure it is robust, fair and transparent
- Review the data used for the learning and development workshops

We hope that Central Bedfordshire Council accepts our recommendations so that we can work together to improve the process for families, enabling them to report better experiences in the future with a consistent approach from all officers.

Case Studies

We have had a number of parents who wanted the reader of our report to hear their experiences. We ask you read these with empathy and curiosity and ask yourself, would you accept this for your family, friend or in your community?

Case study one

Family Context and Background: This case involves a primary-aged child who has complex needs. A request for EHC needs assessment was made in summer 2023, with the parent providing detailed information about needs around anxiety, trauma, and sensory processing. The parent specifically requested input from mental health services, Sensory Integration qualified Occupational Therapy, and Paediatrics to ensure a comprehensive understanding of needs. The home situation is complex, with the child experiencing additional anxiety related to a sibling with significant needs.

The initial assessment process extended well beyond statutory time limits, largely due to Educational Psychology capacity issues. When the draft plan was finally issued in late 2023, taking over 35 weeks, significant concerns remained about the specificity of provisions and professional advice. Despite attempts at further co-production meetings and willingness to work together to produce a plan that was specified in requirements for staff and quantified in provision timings, it was eventually finalised, leading to Tribunal proceedings.

What Went Well: *Following the initial plan being issued, a Senior SEND Officer took over the case. Despite ongoing Tribunal proceedings, positive progress was made in several areas:*

- *Regular communication was maintained*
- *Multiple school consultations were undertaken after a decision to undergo an early review*
- *Creative solutions were explored including education outside chronological age group*
- *Agreement was reached on placement at a specialist provision*
- *The Officer showed consistent willingness to engage with parental concerns*

What Hasn't Gone Well: *The most concerning aspect emerged during the Tribunal process. Despite successful consultation with the agreed specialist provision and agreement on placement, the system struggled to find a practical way to resolve remaining specification issues. An early review was arranged specifically to address these issues, offering a clear opportunity to avoid Tribunal. The parent actively sought a co-production meeting, even requesting a short delay to the plan's finalisation to allow proper discussion of the outstanding points.*

However, the focus remained rigidly on meeting time limits rather than achieving resolution. The parent was informed that despite their willingness to engage in co-production, the plan needed to be finalised that day to meet statutory deadlines. This meant that relatively straightforward specification issues - mainly concerning the precise wording of provisions that everyone agreed were needed and training levels off staff - would now need to be resolved through the working document process at Tribunal.

Learning Points: *Several key issues emerge from this case:*

Process Issues:

- Rigid adherence to time limits prevented practical resolution opportunities
- System inflexibility when substantial agreement exists
- Lack of mechanism to resolve specification issues outside Tribunal
- Need for better access to professional advice when finalising provision details
- No clear pathway to stop Tribunal proceedings when key issues are resolved

Practice Considerations:

- Need for better co-production during initial EHCP development
- Value of creative solutions for meeting individual needs
- Impact of specification issues driving unnecessary Tribunal proceedings
- Need for easier access to professional advice on quantification and specification

Communication Failures:

- Limited co-production during assessment phase
- Missed opportunities for resolution meetings
- Focus on process over practical solutions
- Lack of flexibility when resolution was achievable

Relationship Impacts:

- Positive officer engagement undermined by system constraints
- Parent's willingness to engage collaboratively not fully utilised
- Resources wasted on Tribunal process despite substantial agreement
- Unnecessary stress for family due to procedural rigidity
- Impact on trust in the SEND system

This case shows how procedural rules can block practical solutions, even when everyone agrees on a child's needs. It raises fundamental questions about whether current processes truly serve the best interests of children and families, particularly when opportunities for resolution are sacrificed to meet procedural deadlines.

A key improvement would be ensuring EHC teams have ready access to professional advice such as the SENDAT and Educational Psychology team when working on specification and quantification issues, potentially preventing unnecessary escalation to Tribunal.

Case study two

“We have just been successful in Tribunal for refusal to assess. We went to mediation with the LA. The EHCP Manager refused to acknowledge that my child was masking despite evidence from a Clinical Psychologist and despite a supporting letter from her sister’s school detailing that she had been hurt numerous times because of her sisters meltdowns. As well as pages and pages of other evidence. She acknowledged she had ASD but insisted an EHCP wouldn’t help her. It was draining, depressing and demoralising. We had so much evidence. She reluctantly agreed to an outreach service referral with school. By the time that took place my child’s mental health had declined so much she couldn’t access school. We’ve just heard we won the Tribunal two weeks ago.

They stated ‘The LA’s case remains that there is no evidence that XxxX requires support that is over and above the provision available within mainstream schools and within the notional budget’.

The Tribunal concluded

““Given our findings, we conclude as follows:

a. XxxX has special educational needs because she has ASD. She also suffers from significant anxiety resulting in in her reluctance/refusal to attend school. It appears to us that she has been able to mask the extent of the difficulties she has experienced at school, but this has come at significant cost to her emotional well-being and mental health.

b. In our view XxxX requires further assessment to identify whether further special education provision may be needed to enable her to access education in a mainstream setting.

c. We find that XxxX may require special educational provision in accordance with an EHC Plan.

d. Because an EHC Plan may be needed for XxxX the LA must carry out a needs assessment.

Order

22. It is ordered that:

a. b. The appeal is allowed; and

Central Bedfordshire Council must secure an EHC needs assessment

The parent also highlighted the fact the SENDCO from school held back attendance data showing her extremely low attendance and the fact that she could be lost from education if not assessed!

We are commissioning a private SALT now for our child's assessment at a cost of £1400. We already spent £1800 on Private clinical psychologist for assessment and diagnosis and £600 for a sensory OT - this was originally for school to listen and implement strategies, some of which they did, some not.

No holiday for us this year! £££ and my little girl is still at home."

The SNAP PCF Steering Group sincerely thanks the parents who have contacted us, joined parent panels, and shared their experiences. Your insights and support are vital to our mission to improve SEND services. Together, we want to build a community that empowers and advocates for change. Thank you for your support.

Stay Connected with SNAP PCF!

We'd love to keep in touch with you. Stay engaged by:

- ✓ Following us on **Facebook**: www.facebook.com/snappcf.org.uk
- ✓ Emailing us your lived experiences: **admin@snappcf.org.uk**
- ✓ Completing our **surveys** and attending our **events**

Visit our website for more details: www.snappcf.org.uk