This is a template letter to be used to complain to the Local Authority if they have (or if they will) breach the EHCNA deadline **if the LA initially refused to assess and you had to appeal to tribunal. It does not matter whether the LA conceded or whether the tribunal ordered the LA to carry out an EHC needs assessment on your child – the timeline is the same.**

All font in bold needs to be changed, once changed, you will need to make it normal font – it does not need to be in bold. Any font in red needs to be deleted before sending the letter.

This template was made by Laura Thorne of The SEND Friend Ltd, [www.thesendfriend.co.uk](http://www.thesendfriend.co.uk) and is copyright. It is only intended to be used by parents/carers who are facing delays in their child’s EHC needs assessment.

It must not be copied or duplicated and must not be used to for monetary gain.

**Your Address**

**Town**

**County**

**Postcode**

**Today’s Date**

**Your email:**

**LA Email**

This should be sent to the most senior person at the LA. This is usually the Director of Education or Director of Children’s Services. You can find this easily on google by searching ‘director of education essex county council’ or whichever your local authority is.

Dear Sir/Madam,

RE: **Enter Child Name, D.O.B**

I am writing to raise a formal complaint regarding the Education, Health and Care (EHC) needs assessment process that my child is currently undergoing.

**LA NAME** originally failed to secure an EHC needs assessment for **child**. Following an appeal to the SEND Tribunal, the LA delete as appropriate: **conceded on the DATE** enter date that the LA informed you they were conceding (agreeing to now carry out an assessment) **or** **were ordered to carry out an EHC needs assessment on the DATE**. Enter date of tribunal order here.

As per the SEND Regs 2014 Section 44(b), the Local Authority should have carried out the assessment and notified me as soon as practicable, but in any event within 10 weeks of the date of delete as appropriate **conceding the appeal** or **the tribunal order.** That is by the **DATE.** Include the date that is 10 weeks after the LA agreed to concede OR the tribunal ordered that they must carry out an EHC needs assessment.

Under the SEND Regs 2014 Section 44(b), the Local Authority must now make the

assessment and notify me as soon as practicable but in any event, within 10 weeks of the

date of the tribunal order if following the assessment the LA decides that it is not required

for special educational provision to be made via EHC plan. That is, by the 3

rd

 of April 2024.

If the LA decides that it is necessary for provision to be made for Freya in accordance with

an EHC plan, the finalised plan must be received as soon as practicable but in any event,

within 14 weeks of the date of the tribunal order that is by the 1

st

 May 2024.

In addition, if the LA decides that it is necessary for provision to be made for **child** in accordance with an EHC plan, the finalised plan must be received as soon as practicable but in any event within 14 weeks of the date of delete as appropriate **conceding the appeal** or **the tribunal order.** That is by the **DATE.** Include the date that is 14 weeks after the LA agreed to concede OR the tribunal ordered that they must carry out an EHC needs assessment.

I would like to remind you that, under **Regulation 8(1) of the Special Educational Needs and Disability Regulations 2014** and paragraph **9.52 of the SEND Code of Practice (2015)**, any person or body who is asked to provide information and advice for an Education, Health and Care (EHC) needs assessment must respond **within six weeks** of the request. This statutory timeframe is a **legal duty**, not a discretionary target, and must be complied with.

The existence of waiting lists, staffing shortages, or service delays does **not excuse non-compliance** with this legal duty. If the local authority (LA) is genuinely unable to secure the required professional advice from the relevant services within the six-week period, it is incumbent upon the LA to **commission an independent assessment** and obtain an **independent report** in order to fulfil its legal obligations.

Please note that the responsibility for obtaining and coordinating this advice lies solely with the **local authority**. As the child’s parent, I am **not responsible** for sourcing these reports, nor should I be expected to compensate for any failure by the LA to meet its legal duties.

I trust that you will take the necessary steps to ensure full compliance with the statutory requirements.

The LA is obligated to complete the EHCNA within 14 weeks of the appeal being Delete as appropriate **conceded or decided by the tribunal**, by not doing so you are failing to act in **child’s name**’s best interests and failing to comply with your legal duties.

Delete as appropriate to your situation, there are 4 options and you should only have one option included in your letter:

I would ask that you ensure that **Child’s Name’s EHCNA** is now completed **without any further delay.** In particular, please ensure that an **Educational Psychologist is allocated to my child’s case as a matter of urgency.** If the local authority is unable to source an Educational Psychologist from within its own services in accordance with the statutory six-week timeframe, it must **commission an Independent Educational Psychologist** instead. This responsibility lies with the **local authority,** and delays due to internal staffing shortages or waiting lists are **not lawful grounds** for failing to meet this statutory duty.

I would ask that you ensure that **child name’s** EHC needs assessment is now completed without any further delay. It is now week **enter week here** (since the LA conceded OR the tribunal issued the order)and the LA have not issued **child’s** draft EHC plan. Therefore, please ensure the draft EHCP is issued immediately.

I would ask that you ensure that **child name’s** EHC needs assessment is now completed without any further delay. It is now week **enter week here** (since the LA conceded OR the tribunal issued the order)and the LA have not finalised **child’s** EHC plan. Therefore, please ensure the EHCP is finalised with my parental choice named in Section I immediately. For clarity, the **nursery/school/college/provision** that the LA should secure for **child** is **enter name here.**

I would ask that you ensure that **child name’s** EHC needs assessment is now completed without any further delay. It is now week **enter week here** (since the LA conceded OR the tribunal issued the order)and the LA have not informed me whether they intend to issue an EHC plan. Therefore, please confirm whether the LA intend to issue an EHCP to **child’s name** or not.

I trust that the LA will now follow their legal duty and ensure the EHC needs assessment process is now completed as quickly and efficiently as possible.

I would also like to inform you that, in addition to this letter, it is my intention to raise a formal complaint with the Local Government and Social Care Ombudsman (LGSCO). It is simply not acceptable that the local authority has failed to comply with its statutory duties towards my child under the SEND Regulations 2014 and the SEND Code of Practice. Therefore, I request that your response to this letter clearly states whether it constitutes the local authority’s final response in relation to this matter.

If the local authority wishes to propose a remedy in order to avoid the need for a complaint to the LGSCO, it is welcome to do so. I would highlight that the LGSCO typically considers a financial remedy of £100.00 per month of delay to be appropriate in such cases, and therefore this is the offer that would reasonably be expected.

Yours Sincerely,

**Your name**