

## **Position Statement: Appeals, Mediations, and Complaints**

January 2026

### **Our Commitment**

Bath & North East Somerset Council is committed to delivering a fair, transparent, and legally compliant process for resolving disputes related to Special Educational Needs and Disabilities (SEND). We aim to ensure that every child and young person receives appropriate support while maintaining positive relationships with families and stakeholders.

The local authority has invested significantly in its statutory SEND team in recent years, increasing leadership capacity to 2 full time Service Managers (previously 1 Team Manager), recruiting an additional Senior Officer, 6 additional full time SEND practitioners and a tribunal officer. This investment allows for closer and more timely case management, better communication with parents and families, and faster resolution when challenges occur.

We continue to develop our systems to ensure we support our families with great communication and timely support, which includes ensuring all families 'wait well' for support.

We have improved our data quality and monitoring processes and are now better able to learn from and react to trends arising from complaints, mediations and appeals.

### **Principles & Legal Compliance**

1. **Child-centred decision-making:** We prioritise the best interests and outcomes of the child/young person, ensuring needs are fully identified and provision specified and quantified in line with the SEND Code of Practice.
2. **Early resolution:** Mediation is actively encouraged prior to appeal; professional dialogue continues even where an appeal is lodged.
3. **Tribunal conduct:** We operate to the First-tier Tribunal's inquisitorial model, preparing clear, evidence-based cases and witnesses. Bundle and evidence handling follows SEND40 guidance (2018) and HESC SEND Practice Guidance (2025) on expert reports and page limits.
4. **Health recommendations:** Where Tribunal makes recommendations involving health, the ICB may respond under Regulation 6 of the 2017 Regulations.
5. **Implementation:** Final Tribunal judgments are implemented by the Local Authority; senior officers inform the Statutory Team Manager/Head of SEND promptly after hearings (per Scheme of Delegation, Jan 2026).

- 6. Quality assurance and learning:** EHCPs are quality assured using our quality assurance framework. The service monitor complaints, mediations and tribunals quarterly as part of Multi Agency Quality Assurance and learning is used for constant service development and improvement.

### **Mediation**

165 formal mediations were lodged in the calendar year 2025. Of these 165, 36 were due to a decision not to assess (21%). 12 were due to a decision not to issue a plan following a needs assessment (7%).

The Inclusion and SEND advice service work hard with settings to provide advice and guidance regarding SEND support, Inclusive education and the EHCNA process. They support settings to ensure that needs assessment applications are 'right first time', to avoid delays in support for children and young people. This work is reducing the amount of re applications into the system, and the amount of no to assess decisions,

60% of mediations resulted in resolution without the need for appeal.

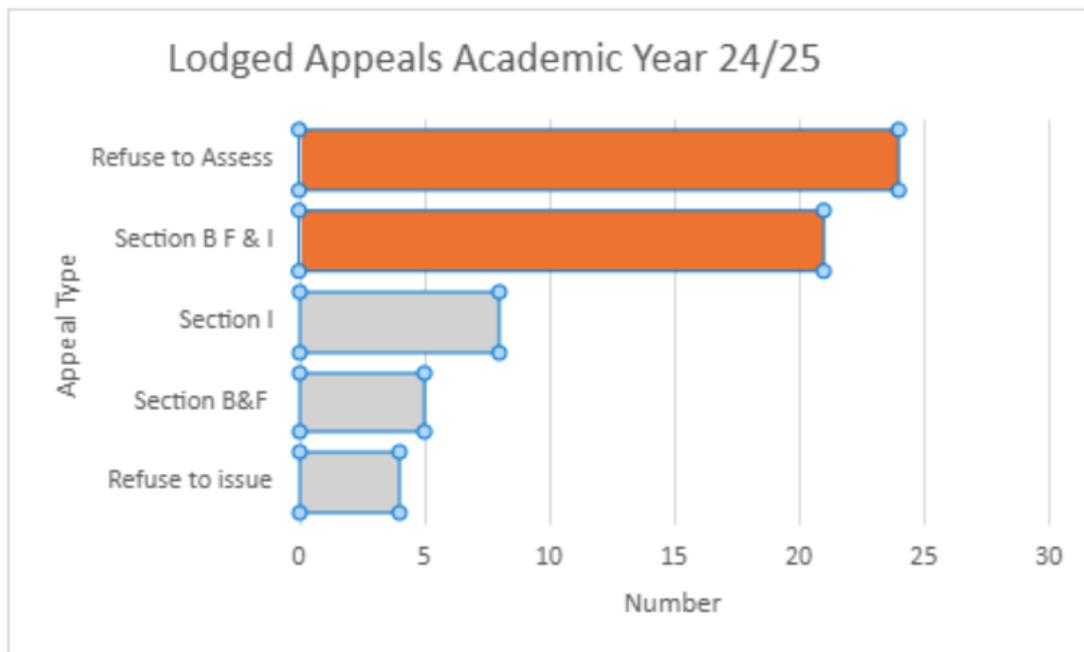
### **Analysis of Appeals Sept 24- Aug 25**

Appeals data is used as a key source of governance and quality assurance learning within the partnership, through our multi agency quality assurance group. Learning is used to strengthen future practice, with decision-making subject to scrutiny and oversight to enable this to happen effectively. Governance arrangements enable reflection, monitoring of ongoing cases, and continuous improvement across the SEND system.

The appeals data shows that most disputes are resolved through collaborative agreement prior to tribunal, reducing the need for families to progress through a formal hearing. This enables clarity, quicker access to assessment or amended provision where appropriate, and helps limit the stress, uncertainty and delay associated with prolonged dispute processes.

No extended appeals were lodged in the 24/25 period, evidencing the effectiveness of the partnership in agreeing multiagency support for our families.

## Reasons for appeals:



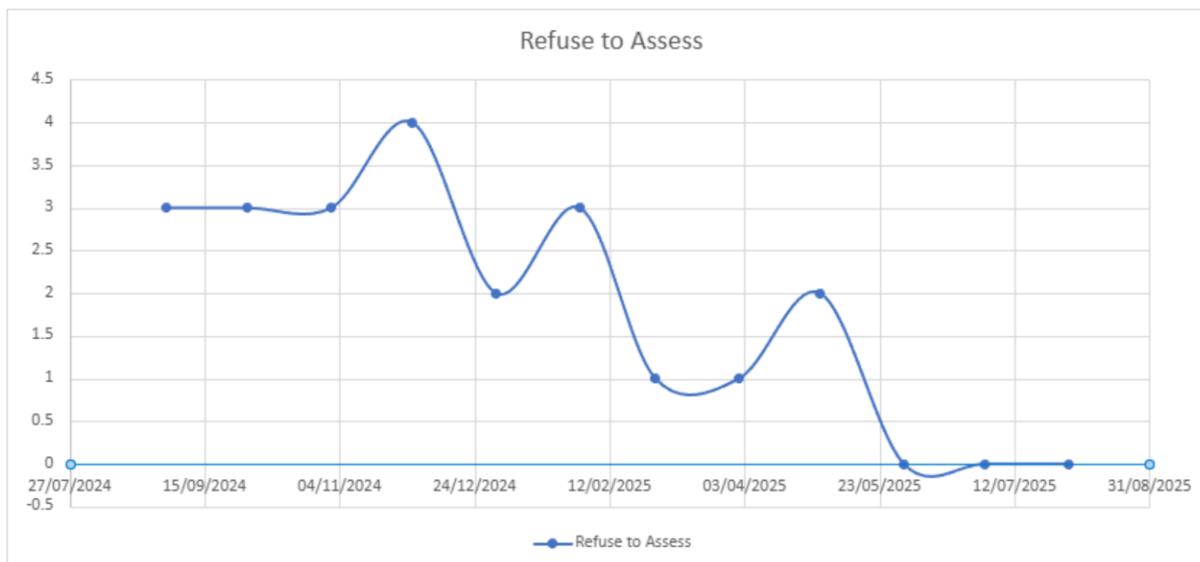
Refusal to assess and disputes relating to the content and provision of a plan are the most common reasons for appeal.

### Refusal to Assess Appeals:

When there is a refusal to assess decision, each family and setting receive a telephone call from their allocated SEND worker to explain the decision and allow for an immediate resolution where appropriate. Families are offered a 'ways forward meeting' to meet with the LA team and discuss next steps, which may include referral to our Inclusion and Advice service or another commissioned service for additional advice at SEND support.

Where additional evidence is available, this is resubmitted swiftly and the decision is revised.

In 2024/25 the Inclusion and SEND support service was launched, working with our schools to deliver the very best support possible to families and children. Additional school training has been put in place, increasing the quality of needs assessments received, and this alongside the robust scheme of delegation has seen a significant decrease in the number of appeals lodged due to refusal to assess across the year:

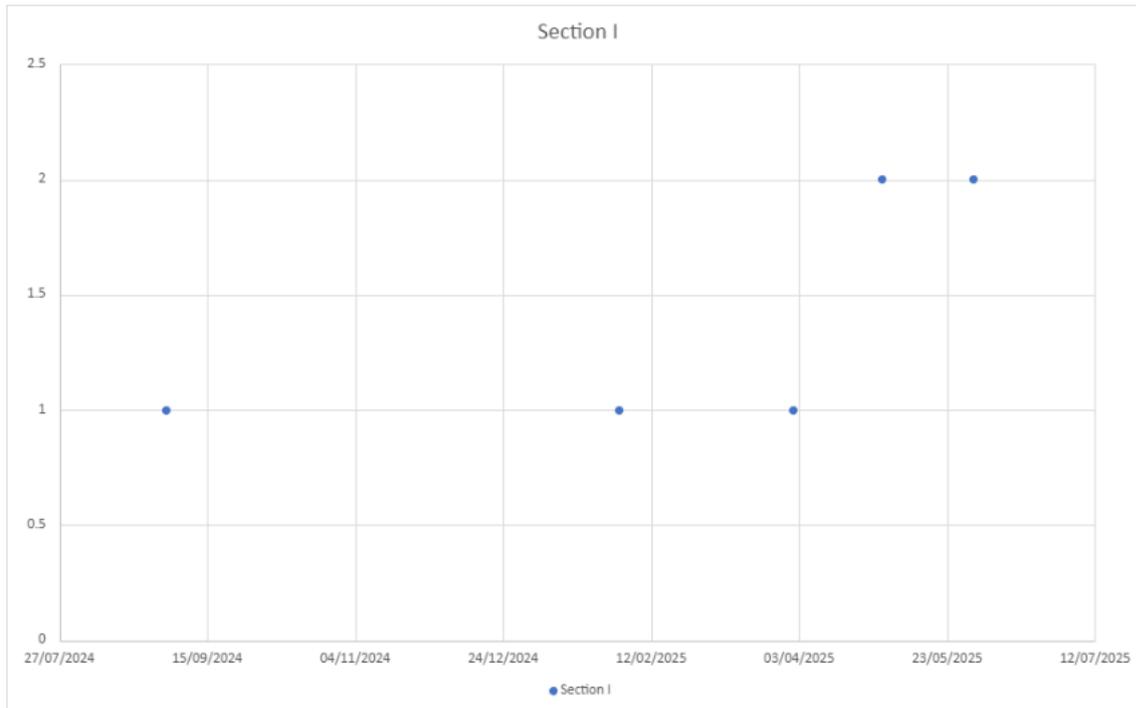


Out of the 28 appeals lodged due to refusal to assess, in 21 cases we were able to resolve the appeal without the need for the tribunal to intervene. 1 case was upheld, 1 dismissed and 5 remain live.

### Section I Appeals:

Appeals related to Section I are clustered around the phase transfer period, which is to be expected given the volume of placement changes being agreed at this time. In the majority of cases, appeals against section I are not regarding placement type, but related to our agreement to name parental preference. Capacity issues in our local special schools are the reason for 4/8 of these appeals. These were all resolved prior to appeal through collaborate work across the partnership to accommodate parental preference.

3 appeals related to young people leaving 1 independent non section 41 specialist school requesting independent mainstream schooling for post 16. The local authority conceded these appeals.



### Capacity in Special Schools and Resource Bases - by school

Est type   Name	SEN capacity	SEN on roll	% capacity used	B&NES EHCPs	Available capacity	% from outside B&NES
<b>Special</b>	<b>564</b>	<b>593</b>	<b>105%</b>	<b>521</b>	<b>-29</b>	<b>12%</b>
Three Ways School	240	253	105%	226	-13	11%
Fosse Way School	220	232	105%	208	-12	10%
North Star 180°	104	108	104%	87	-4	19%

### Appeals relating to content and provision:

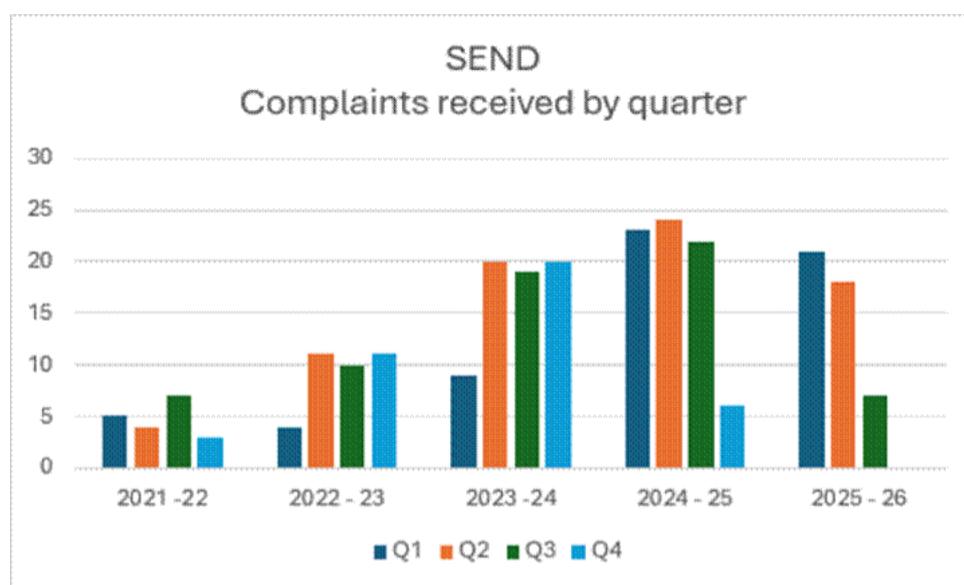
Section B, F and/or I appeals show the widest range of outcomes reflecting the complexity and individualised nature of disputes concerning needs, provision and placement.

Extensive work has taken place to quality assure our EHC plans. Please refer to annexe A 2.1 Approach to EHC plans for further information regarding our tier 1 (local) and tier 2 (multi agency) approach.

## Complaints

Complaints are recognised by the service as opportunities to improve and are handled in accordance with the Council’s corporate feedback policy. Responses are timely, transparent, and include apologies where service failures are identified. Complex or contentious complaints are escalated to senior officers and, where necessary, involve legal advice to ensure compliance and fairness. Importantly, the service reviews complaints as part of their multi agency quality assurance approach and uses this data to inform continuing service improvement.

We review complaints in line with academic years:



Reasons for complaints:

	22-23	23-24	24-25	25-26 (Q1+Q2)	Comments
Delay issuing EHCP	5	16	15	6	Draft and final
Disagree with information in EHCP	1	1	4	5	e.g. no school named – named by type, inaccurate information recorded.
Delay with EHCNA decision	2	6	7	2	
Delay with Education psychology advice	1	1	0	0	
Delay securing provision	3	8	7	1	e.g. no special school placements available

Provision not being delivered	8	6	5	11	e.g. SALT, OT, alt learning
Disagree with decision	7	3	1	0	e.g. decision not to issue EHCNA, banding, disagree with type of provision offered, content of EPS report
Delay with issuing A/R paperwork or follow up	0	4	15	6	
Poor communication from SEND Service	3	4	7	2	
Personal budget issues	2	1	1	0	
Data Breach	1	1	0	0	
Transport issues	1	2	2	1	
Concern about quality of provision	0	0	0	1	

Our complaints data shows us that the service has improved communication with parents, and that work to address delays in decision making and in provision has been successful.

Our 20-week timeliness continues to be a challenge for the service, as demonstrated by the number of complaints we receive regarding a delay in issuing a plan. Similarly, delays in annual review paperwork are also highlighted as a concern. These challenges are in line with the national pressures on the statutory SEND system and are addressed in our waiting well statement.

In financial year 26/27 the Inclusion and SEND service will expand its remit to monitor the quality and accuracy of provision in schools, as stated in section F of an EHCP. This will allow us to support schools to implement provision quickly and effectively, reducing wait times and frustration with the system.

## Local Government Ombudsman

In 2025, 3 appeals were taken to the LGO for decision, a reduction of 2 cases from 2024. We recognise that work needs to be done to improve our adherence to statutory timescales, and the service is working hard to ensure all families 'wait well' during this period of stretched resources.

Year	Number of cases with a financial remedy	Total amount paid
2022	0	0
2023	0	0
2024	5	£11,850
2025	3	£1,250