‘I have become aware that my daughter is struggling at school.  She will be starting Year 6 in September.  I have been in discussion with her school who have told me that they have been providing extra help for her.  She is now saying that she does not want to go to school and I am worried that she will become a school refuser particularly as she only has one year left at primary school.   The Local Authority has refused my request to undertake an EHC needs assessment of my daughter's needs on the basis that my daughter's needs are well known and have been recognised and that they can be met within the mainstream school local offer including the provision of teaching assistant support.'

You will need a form SEND24B form – refusal to secure an EHC assessment – child of or under statutory school age <http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=4737>

Please remember to save the form as you go along.

Section 1 asks for your child’s details – we shall call her Sally-Jane Smith.

Section 2 asks for your details and the details of anyone else, or organisation, that has parental responsibility.

Section 2 also asks if you are being represented and if so, the details of that person. In the example attached we have left the boxes blank, as we are not sure whether we would be using a representative or not. If you think that you might have a representative or are unsure, you could write in ‘to be confirmed’, or if you are having a representative, put in their details. Refusal to Assess appeals are usually decided on papers, rather than a hearing that you will need to attend. You might decide to do the paperwork yourself, or have a representative to do it for you. We have checked the box ‘parent one’ as the person who will be receiving the paperwork from the tribunal and from the local authority.

Section 3 asks three questions:

* I disagree with the Local Authority’s (LAs) decision because:
* My child has or may have the following special educational needs:
* They may need an EHC plan because:

These questions follow the legal framework to whether a child may require an assessment, that is, that they may have special educational needs which might require an EHC plan to be made.

It is often helpful if you can do a little ‘pen portrait’ of your child, or list the type of difficulties that you think that your child is having, and the type of support that your child is receiving or you think should receive. The SEN Code of Practice 9.54/5/6 discusses scenarios where an EHCP may or may not be required.

If you have any documents which support your request for assessment, refer to them on your application form and include them with the submission to tribunal. If there is a particular page number you wish to draw attention to within a report, you can just point this out. Tribunal is evidence-based, do not assume that they are aware of anything that you may have previously sent to the local authority. Include all of your evidence with your appeal, you will also have a chance to submit further evidence later, if necessary.

Section 4 asks you to provide details of your local authority.

Section 5 asks if you are in agreement that the appeal should be heard on the papers submitted, rather than face-to-face hearing. Unless there are unusual circumstances, most Refusal to Assess appeals can be heard on papers only.

It is usual that the local authority gains the child’s views, unless there are particular reasons why they should not do so, it is reasonable to take the ‘yes’ box, even where the child may be non-verbal.

Section 6 asks if there is an existing appeal in progress, whether for this child, a sibling, or a Disability Discrimination claim. If you have a Disability Discrimination claim in progress, depending on circumstances, it might be preferable for the two appeals to be heard separately. This would be so each appeal can be heard on its own merits, without confusion.

Section 7 is a simple checklist of what you need to enclose with your appeal.

Section 8 is for your signature(s).

Section 9 is the email and postal address of the tribunal.

In addition to the appeal form, there is a standard diversity monitoring questionnaire.