



# SEND Single Route of Redress National Trial

18<sup>th</sup> January 2019 Newsletter

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Welcome to the January 2019 SEND Single Route of Redress National Trial newsletter. This newsletter focuses on:

## Key updates

## Events

### Appeal form: SEND35

### Mental capacity and appealing

## Key updates

**Since the launch of the national trial on the 3rd April 2018 there have been 420 cases registered under the First-tier Tribunal's extended powers.**

*Please note: The 420 cases identified above were registered between the 3<sup>rd</sup> April 2018 and 11<sup>th</sup> January 2019. Updates on the number of cases registered under the national trial will be provided on an ongoing basis in the national trial newsletter.*

## Events

### **SEND Single Route of Redress National Trial – Local Area Stakeholder Briefing Events**

In February – March 2019, 6 events will be taking place with the aim to provide local areas with an update on the progress of the trial since the 3rd April 2018 start date. The sessions will include sharing key learning, highlighting emerging issues, reminding local areas of the regulations and duties relating to the trial and a Q&A session with a First-Tier Tribunal Judge.

There are 3 spaces per local authority area at the events, spaces are allocated as:

- 1 place for a senior SEND representative



- 1 place for a senior social care representative
- 1 place for a senior health representative

Parent carer representation will be managed through the NNPCF at a regional level.

Details and links to further information for the events, as follows:

Region(s)	Date	Location	Link to further details and to book onto
North East and Yorkshire & Humber	13 <sup>th</sup> February 2019	Hilton York, 1 Tower St, York, YO1 9WD	<a href="#">Book here</a>
South West	28 <sup>th</sup> February 2019	DoubleTree by Hilton Hotel, Bristol City Centre, BS1 6NJ	<a href="#">Book here</a>
East Midlands and West Midlands	13 <sup>th</sup> March 2019	Holiday Inn, Birmingham, M6. Chapel Ln, Birmingham B43 7BG	<a href="#">Book here</a>
Eastern, London and South East	18 <sup>th</sup> March 2019 (2 sessions AM / PM)	Swiss Cottage Community Centre, 19 Winchester Rd, London NW3	<a href="#">Book here</a>
North West	25 <sup>th</sup> March 2019	Doubletree by Hilton Manchester Piccadilly, M1 3DG	<a href="#">Book here</a>

If your local area is no longer listed on the drop down menu of the order form, the allocation for your local area will have been filled.

Should you have any difficulties with the booking process, please contact Mott MacDonald at [SENDdeliverysupport@mottmac.com](mailto:SENDdeliverysupport@mottmac.com).

### **Appeal form: SEND35**

A reminder to ensure that the correct appeal form in relation to the national trial is being used. The SEND35 appeal form can be found at <https://www.gov.uk/government/publications/form-send35-special-educational-needs-and-disability-tribunal-appeal>.

There is more guidance on appealing within the form.



## **Mental Capacity and Appealing**

Under the Children and Families Act 2014, a child will become a young person once they reach the end of compulsory school age (the last Friday of June in the year the child turns 16). Once the child becomes a young person the law states that parental rights in relation to the young person's education automatically passes to the young person themselves. A person must be assumed to have capacity unless there is evidence that they are not able to make the relevant decision.

Mental capacity is assessed in relation to the particular decision which needs to be made. This means that whether a young person has mental capacity to make a particular decision or not has to be considered on an individual basis in the light of the circumstances at the time. You cannot just say that someone lacks mental capacity generally.

Where a young person has the mental capacity they have the right to appeal to the Tribunal themselves (although parents can help them). Where a young person does not have the capacity to do so, an 'alternative person' (usually their parent) will be the person bringing the appeal.

Before concluding that a young person is unable to make a decision, all practicable steps should be taken to help them make the decision without success. Importantly, the Mental Capacity Act is clear that a person is not to be treated as unable to make a decision merely because they make an unwise decision.

*If a young person lacks capacity to make a particular decision, the person making the decision on their behalf must act in the young person's best interests. During an appeal process the young person's representative will act on their behalf, however this does not mean that throughout the appeal process the young person's view should not or cannot be heard, it is important that their views and opinions are heard and fed into the process as much as possible.*

Statutory guidance: the legal concept of mental capacity is contained in the Mental Capacity Act 2005 and the [Mental Capacity Act Code of Practice](#).

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Please disseminate this newsletter to your teams and relevant organisations. Additionally, if you:

- Have received this newsletter but are not on the mailing list and would like to be
- Know anyone who would like to be added to our newsletter mailing list
- Have any requests for specific information or updates regarding the national trial you would like to be included in future newsletters
- Have any specific queries regarding the national trial



Department  
for Education

**M**  
MOTT  
MACDONALD **M**

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- No longer wish to receive this newsletter

please contact: [SENDdeliverysupport@mottmac.com](mailto:SENDdeliverysupport@mottmac.com) who will deal with your request accordingly.