

TORBAY COUNCIL

Schools Forum Paper –

Mediations and Tribunals financial review for Schools Forum

Introduction and Purpose:

Schools Forum has requested to explore in more detail Mediation and Tribunal costs over the past year to further understand the challenges to ‘best use of resources’ in our Higher Needs Block. This paper will give a particular focus upon Independent Sector Placements this being the highest area of spend on our Higher Needs Block.

Data Snapshot –

- In 2024 there were 38 appeals with 18 progressing to a tribunal hearing.
- In 2025 there were 89 appeals with 3 progressing to a tribunal hearing.

(see Appendix A and Appendix B)

The decrease in hearings are the result of improved sufficiency across the Local Area with more disputes being able to be resolved through Local Authority provision.

However, Torbay’s historic challenges with sufficiency have meant that young people previously placed at tribunal hearings will still be continuing in their provisions until (at the earliest) their next phase transfer. For example when an order is made for an Independent Specialist Educational Placement (ISEP) this means that the young person ISEP costs which be for the length of their educational career and are not just a one year cost. This cumulative effect is a key challenge to the High Needs Spending. To mitigate this the LA SEND team review all ISEP placements annually, however there is no legal right to remove a young person from an ISEP placement until a phase transfer, and even at this time there would need to be the right offer of provision available along with this being in line with child and parent wishes.

Links to Independent Placements and Tribunals

Torbay’s work on sufficiency is meaning that our forecasted use of ISEPs over time is decreasing – see Appendix C.

Currently there are 11 number of young people at ISEP settings as a result of a tribunal in the last 5 years.

This needs to be seen in the wider picture of the use of Independent Specialist Placements; ‘out of area’ ISEP placements are of a higher proportion due to the complex nature of these young peoples’ needs.

Costs:

LA Tribunal Management Costs

An appeal or Mediation costs attributable to the Local Authority are:

- Local Authority SEND Mediation team staff- 3 members of permanent staff. No legal representation is used for tribunal hearings.
Cost £154k
- Global Mediation Contract Cost – (The LA are obliged to provide impartial mediation)

In 24/25 the cost was £7,875

LA Placement costs

Independent Sector Placement Costs from tribunal placements:

- Of the 50 current ISEP placements 11 have been placed via a tribunal into an Independent Sector Placement.

The total annual cost of the 11 placements are: £686k.

The 11 young people year groups range from Year 4 to Year 13. If we assume that each young person would keep their tribunal placement for five years (this is more when ISEPs have a post16 placement) then the total cost of these tribunal placements are £3.430m

Conclusions:

The Torbay LA SEND team are working hard to continue to improve sufficiency in specialist placements. We hope that the forthcoming White Paper will support enhancing local provision so that the system supports better use of resources in the future.