

Supporting Children With Special Educational needs in school

June 2005

Learning difficulty

The Education Act 1996 Section 312(2) as amended by the SEN and Disability Act 2001 provides the legal definition of learning difficulty. A child has a "learning difficulty" if:

- (a) he has a significantly greater difficulty in learning than the majority of children his age,
- (b) he has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided for children of his age in schools within the area of the local authority, or
- (c) he is under the age of five and is, or would be, if special educational provision were not made for him, likely to fall within paragraph (a) or (b) when of or over that age.

Special educational provision

The Education Act 1996 Section 312(4) provides the legal definition of special educational provision.

Special educational provision means:

- (a) for children of two or over, educational provision which is additional to, or otherwise different from, the educational provision made generally for children of their age in schools maintained by the LA, other than special schools, in the area, or
- (b) for children under two, educational provision of any kind.

School Action and School Action Plus

Every school is provided with a budget to support children with special educational needs and will have a Special Educational Needs Co-ordinator (SENCO) responsible for managing this support. Support is provided in two ways; through School Action or through School Action Plus.

School Action is defined as the school providing intervention additional to or different from that normally offered in its differentiated curriculum. School Action Plus is where the pupil's needs are such that the school has to consult outside agencies - for example the educational psychologist.

Parents MUST be informed and involved if their child receives support in this way.

It is also helpful if parents can keep evidence of a child's progress, possibly through keeping a diary of their concerns when progress is less than expected, to share with the class teacher and SENCO. The school should also closely monitor the progress a pupil makes as a result of this extra support so that further action can be taken, if required.



This monitoring will include an Individual Education Plan (IEP) which ASBAH advisers can help with if requested. This will have 3 - 4 short-term targets, strategies and resources used and possibly advice for parents. The IEP is reviewed 2 - 3 times a year when outcomes are discussed and new targets set. Not only are parents involved but also the views of the child are considered.

Getting Further Help

If, despite the extra support provided through School Action Plus, a pupil is still not making satisfactory progress, it may be that additional resources are required above that which the school can reasonably be expected to provide from its own resources. If this is the case parents and/or the school can request a "Statutory Assessment of Special Educational Need". A Statutory Assessment is an in depth multi-disciplinary assessment of a child's needs and the provision required to meet them. The LA must decide within six weeks whether or not to carry out the Statutory Assessment. If the LA turn down the request they must give clear reasons why and let the parents know they have a right of appeal to the SEN Tribunal. In deciding whether to assess, the LA will look at the school's own assessment of the child's difficulties (including what the school has done so far; the child's academic attainment; the child's progress) the assessments of other professionals involved and last but not least, parental views. This is why it is useful, as mentioned earlier, to keep a diary to provide the evidence needed.

The Statutory Assessment

As part of the process of formal assessment the LA MUST seek written advice from:

- The parents
- Medical professionals
- The Educational Psychologist
- Social Services
- The child
- Any other person suggested by the parent (This could include the ASBAH Area Adviser).

All schools will have the 'SEN Toolkit' (also available from DFES) and section 8 could be helpful to parents when writing their reports. Carrying out the Statutory Assessment should take no longer than ten weeks.

After the Statutory Assessment is Completed

The LA will send parents copies of all the advice obtained (better LAs will send parents copies as soon as they receive them) together with their decision. The LA will then decide whether to issue a Statement of Special Educational Need, a legal document setting out the child's needs and the provision required to meet those needs. If they decide not to issue a Statement, they must tell parents why and notify them of their right of appeal. In this case an LA might decide to issue a 'Note in lieu', which is rather like a Statement in that it describes a child's needs, makes recommendations on provision and has the advices attached but is not legally binding.

If the LA decides a Statement is required, they will send parents a Proposed Statement. Parents then have fifteen days to comment on this document, although they can ask for a further fifteen days. This is a crucial stage in the process and ASBAH would encourage parents to contact the Area Adviser/Education Adviser to discuss the proposed statement with them.

The Proposed Statement is divided up into 6 parts. These are

Part 1 - Personal details such as names and addresses

Part 2 - A description of the child's needs

Part 3 - A list of objectives, the provision required to meet the identified needs and monitoring arrangements. It is vital that the provision is both specific and quantified. It is important to avoid vague and generalised wording.

Part 4 - The placement, although this has to be left blank in proposed Statements

Part 5 - Non-educational needs, often including physiotherapy needs or OT needs.

Part 6 - Non-educational provision, the sort of physiotherapy required/transport, etc.

Parts 2,3,& 4 are legally binding on the LA; parts 5 & 6 are not.

One important addition in the revised Code of Practice is that speech and language therapy should now normally be placed in Part 3 of the Statement.

What to look for in a Statement

Part 2 of the Statement should provide a full description of the child's difficulties, making it clear to school staff what she/he can and can't do.

Part 3 should contain information on the provision required to meet all the needs identified in Part 2. There should be no room for doubt about what is to be provided, who will provide it and how it will be delivered. The code says "Provision should normally be quantified (eg in terms of hours of provision, staffing arrangements) although there will be cases where some flexibility should be retained in order to meet the changing special educational needs of the child concerned". (Code 8:37). It is important therefore to avoid vague and generalised words or phrases such as 'regular help from..' or 'opportunities for...' Instead try and get wording such as, '1 hour per week individual speech therapy by a qualified speech and language therapist...', '15 hours of learning support assistance per week to be used to deliver the above provision', or 'A further 1 hour of support per day to be used during the lunch break to assess John in eating and to ensure his safety during play'.

It is often useful to have a meeting with an LA officer to discuss the Proposed Statement and any changes you feel are needed. After this meeting you will be sent a Revised Proposed Statement. If you are still not happy with this version you can ask for another meeting. Your ASBAH area Adviser and/or Education adviser will be happy to advise you during these negotiations.

Following negotiations, the LA will send you a Final Statement. They must notify you that you have two months to lodge an appeal with the SEN Tribunal if you still disagree with the contents. Again, you can ask ASBAH about this.

Inclusion and Choice of School

When an LA issues a proposed Statement they must leave part 4, the section naming the school, blank. They will wait until the final statement names a school.

Parents of children who have special educational needs now have strengthened rights to a place in mainstream school (inclusion). So, if a parent expresses a preference for a maintained mainstream school, the LA must agree to this request unless -

- the school is unsuitable to the child's ability, ability and aptitude or to his or her special educational needs;
- the placement will threaten the efficient education of children with whom the child will be educated;
- the placement will result in an inefficient use of resources.

If the LA refuse a parent's preference for a particular mainstream school, they must offer a place in another mainstream school unless that would be incompatible with the provision of efficient education for other children. If there is an access problem, LAs can apply for money to make any adaptations necessary.

Parents have the right of appeal against the school named in Part 4.

There is no legal right for a parent to express a preference for an independent school.

Annual Reviews

A LA must review each Statement at least once a year. This is called the Annual Review. The Headteacher of the child's school will arrange the review meeting and invite the parents and all those working with the child to attend and submit a report.

Parents can ask for people to be invited as well, for example the ASBAH adviser. The meeting will discuss the Statement to see if any amendments are needed or if it is still required and set new targets for the coming year. It is vitally important that parents write a report for consideration at the meeting. Also the views of the child will be sought and if possible they will be invited to attend all or part of the meeting. After the meeting the Headteacher will send a report of the meeting and its recommendations to the LA. When a child is changing phase, for example from primary to secondary school, the LA must complete the annual review and decide on the new placement by 15 February in the year of transfer.

Transition Plan

The annual review in year 9 must draw up a Transition Plan. This must draw together information from a wide range of people in order to create a coherent plan for the young person's transition to adult life. The Connexions Service must be involved in drawing up this plan and allocate the pupil a personal adviser. ASBAH has information on Pupil Centred Transitions - see information section archive on www.asbah.org

Preventing and resolving disagreement

Each LA must establish a Parent Partnership Service to provide parents with a whole range of advice and information about the special educational needs process. They must inform parents about this service and how to contact it. Similarly, all LAs must establish a disagreement resolution service that provides an independent, appropriately trained person to mediate between parents and the LA. It is important to note that using such a service does not remove the right of appeal to the Tribunal.

Discrimination

Issues around possible discrimination on the grounds of disability are addressed in a separate Code of Practice. A guide to this is available from the Disability Rights Commission, tel: 08457 622 633, www.drc-gb.org

Further information

www.dfes.gov.uk

www.teachernet.gov.uk

Link magazine

The essential magazine for people with hydrocephalus and spina bifida.

Link is published quarterly (Winter, Spring, Summer and Autumn) and is packed with the latest news, events and issues for individuals, carers and people living with hydrocephalus and spina bifida. To subscribe contact **ASBAH's Helpline 0845 450 7755** email: helpline@asbah.org or visit our web site: www.asbah.org and click on the publications page.



Help us

ASBAH relies on people's generosity and support so we can help our clients who depend on us for help and advice - people with hydrocephalus, spina bifida, their families and carers. To donate to ASBAH please visit www.asbah.org or call 01733 421327.