

Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

A large, bright yellow starburst graphic composed of multiple overlapping, semi-transparent star shapes, creating a glowing effect. It is positioned in the upper left quadrant of the page.

# **Special Educational Needs Code of Practice for Wales**

A large, stylized red silhouette of a dragon, facing left. It is positioned in the lower right quadrant of the page, partially overlapping the bottom edge of the title text.



**Special Educational Needs  
Code of Practice for Wales**





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## PREFACE



From the Welsh Assembly Government Minister for Education and Lifelong Learning, Jane Davidson AM

I am delighted that this document is the first SEN Code of Practice for Wales. It reflects the distinct arrangements, structures and legislation particular to our country.

The Welsh Assembly Government is committed to the provision of high quality education services and to enabling all children to reach their true potential.

I consider that the SEN Code of Practice for Wales will assist in improving the educational experience of children who have special educational needs, whether they have a statement or not, and that it will have a key role in helping to realise my vision of Wales as a Learning Country.

This Code is all about removing barriers to participation and learning. The key principle is that children with special educational needs should have their needs met. Providing effective support for children with special educational needs is an essential feature of effective schools. Overall, the Code is designed to offer clearer guidance for early years providers, primary school and secondary school teachers, local education authorities, families, and all those involved in providing for children's special educational needs.

I am confident that this Code will build on the strengths and success of its predecessor and help in our efforts to raise the achievement of all children.

A handwritten signature in black ink that reads "Jane Davidson". The signature is written in a cursive style with a large initial 'J'.



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# Foreword

## Introduction

1 The SEN Code of Practice for Wales provides practical advice to Local Education Authorities, maintained schools, early years settings and others on carrying out their statutory duties to identify, assess and make provision for children's special educational needs.

2 The Education Act 1993 placed a duty on the Secretary of State for Education to issue a Code of Practice and established the power to revise it from time to time. The first Code of Practice came into effect in 1994. Since then, the rights and duties contained in the 1993 Act have been consolidated into Part IV of the 1996 Education Act. This Code of Practice replaces the 1994 Code in Wales. It follows consultation between July and October 2000 with LEAs, schools, SEN voluntary bodies, the health and social services, and others on a draft of a revised Code. The draft was then revised in the light of comments from all interested parties, and subsequently laid before and approved unanimously by a plenary session of the National Assembly.

3 This Code, like its predecessor, will help schools and LEAs obtain the best value from the considerable resources and expertise they invest in helping children with special educational needs. It retains much of the guidance from the original Code. But it takes account of the experiences of schools and LEAs in using the original Code and developments in education since 1994. It includes new rights and duties introduced by the SEN and Disability Act 2001 and Regulations.

4 This foreword explains the status of this Code of Practice, highlights related developments and summarises the main differences from the 1994 Code. It is not formally part of the Code itself.

## The Status of the SEN Code of Practice

5 This Code of Practice is effective from 1 April 2002. From that date LEAs, schools, early years settings and those who help them – including health and social services – must have regard to it. They must not ignore it. That means that whenever settings, schools and LEAs decide how to exercise their functions relating to children with special educational needs, and whenever the health and social services provide help to settings, schools and LEAs in this, those bodies must consider what this Code says. These bodies must fulfil their statutory duties towards children with special educational needs but it is up to them to decide how to do so – in the light of the guidance in this Code of Practice. The Code is designed to help them to make effective decisions but it does not – and could not – tell them what to do in each individual case. The duty to have regard to this Code will continue for its lifetime.

## Implementation

6 New statutory duties on LEAs, schools and early education settings introduced by the Special Educational Needs and Disability Act 2001 and revised Regulations come into force on 1 April 2002. Key statutory duties are paraphrased in boxes throughout the text. The Regulations set out transitional provisions

dealing with assessments, statements and reviews commenced under the old system. During the transitional period, whilst schools and LEAs must have regard to this Code, they will need to do so in the light of those transitional arrangements. It would be unrealistic to expect them to have in place on 1 April procedures matching every aspect of the arrangements described in this Code. They must however, have regard to this Code from that date and thereafter.

## **Changes from the Original SEN Code of Practice**

7 This Code takes account of the SEN provisions of the Special Educational Needs and Disability Act 2001:

- a stronger right for children with SEN to be educated at a mainstream school
- new duties on LEAs to arrange for parents of children with SEN to be provided with services offering advice and information and a means of resolving disputes
- a new duty on schools and relevant nursery education providers to tell parents when they are making special educational provision for their child
- a new right for schools and relevant nursery education providers to request a statutory assessment of a child

It contains separate chapters on provision in the early years, primary and secondary phases and new chapters on:

- working in partnership with parents
- pupil participation
- working in partnership with other agencies

8 The Code recommends that, to help match special educational provision to children's needs, schools and LEAs should adopt a graduated approach, through School Action and School Action Plus, and Early Years Action and Early Years Action Plus in early education settings.

## **Monitoring the SEN Code of Practice**

9 The operation of Part IV of the 1996 Act, including the effect of this Code, will be closely monitored. Estyn inspectors will look closely at schools' SEN policies and practices. Through their examination of and reports on the education system, they will also monitor and evaluate the impact of this Code and other measures on schools and LEAs. The Secretary of State will consider, in the light of this evaluation and all other relevant factors, whether and when the Code should be revised again.

## **The SEN Tribunal**

10 When considering an appeal from a parent, the SEN Tribunal must have regard to any provision of this Code relevant to any question arising on the appeal. The Tribunal does not exercise a general oversight of LEAs' adherence to

the Code's provisions. Its task is to consider whether LEAs have reached the right decision in the light of the particular circumstances of each appeal. Nonetheless, the Tribunal will expect LEAs, schools and early education settings to be able to explain the rationale for any departure from this Code where such a departure was relevant to the decision in question.

## **Relevant Regulations**

- 11 The following Regulations are relevant to matters covered in the Code:
- The Education (Special Educational Needs) (Wales) Regulations 2002
  - The Special Educational Needs (Provision of Information by Local Education Authorities (Wales) Regulations 2002
  - The Education (Special Educational Needs) (Information) (Wales) Regulations 1999
  - The Special Educational Needs Tribunal (Time Limits) (Wales) Regulations 2001

## **Other Guidance**

### **Guidance on inclusion**

12 Section 316A of the Education Act 1996 specifies that children with special educational needs should normally be educated in mainstream schools so long as this is compatible with receiving the special educational provision that their learning difficulty calls for; the efficient education of other children, and the efficient use of resources.

Additional advice on the inclusion of children with special educational needs, for example when dealing with difficult behaviour and the school exclusion process, is contained in National Assembly for Wales Circular 3/99, 'Pupil Support and Social Inclusion'.

### **The Disability Rights Code of Practice for Schools**

13 Part 2 of the Special Educational Needs and Disability Act 2001 amends the Disability Discrimination Act 1995 to prohibit all schools from discriminating against disabled children in their admissions arrangements, in the education and associated services provided by the school for its pupils or in relation to exclusions from the school. The reasonable adjustments duty on schools does not require the provision of auxiliary aids and services or the removal or alteration of physical features. Decisions about the provision of educational aids and services for children with SEN will continue to be taken within the SEN framework.

14 From September 2002, schools will be required not to treat disabled pupils less favourably for a reason relating to their disability and to take reasonable steps to ensure that they are not placed at a substantial disadvantage to those who are not disabled. A Disability Rights Code of Practice for schools, prepared by the Disability Rights Commission, will explain these new anti-discrimination duties to schools. LEAs and relevant schools will also be required from September 2002 to

plan strategically and make progress in improving accessibility for disabled pupils to schools' premises and to the curriculum, and to improve the delivery of written information in an accessible way to disabled pupils. The National Assembly will prepare separate guidance for LEAs and schools in Wales on the practical steps they can take to improve their accessibility to a wide range of disabled pupils.

15 When the Disability Rights Code of Practice for Schools and the planning duty guidance are published they will go alongside this SEN Code of Practice and cross-refer to it where appropriate.

### **National Assembly "Handbook of Good Practice for Children with SEN"**

16 Additional guidance to be read in conjunction with this Code of Practice will be available in the "Handbook of Good Practice for Children with SEN". The Handbook will be developed in association with a range of practitioners and other interested parties. The additional guidance and this Code will cross-refer to each other.

# 1. Principles and Policies

## Introduction

**1:1** The purpose of the Code of Practice is to give practical guidance on the discharge of their functions under Part IV of the Education Act 1996 to LEAs, the governing bodies of maintained schools and settings in receipt of Assembly funding to provide early years education - and to those who help them, including the health services and social services. It also provides general practical guidance to such settings about the provision of early years education to children with special educational needs. All these parties are required to have regard to this Code.

**1:2** The Code sets out guidance on policies and procedures aimed at enabling pupils with special educational needs (SEN) to reach their full potential, to be included fully in their school communities and make a successful transition to adulthood. For the vast majority of children their mainstream setting will meet all their special educational needs. Some children will require additional help from SEN services or other agencies external to the school. A very small minority of children will have SEN of a severity or complexity that requires the LEA to determine and arrange the special educational provision their learning difficulties call for.

**1:3** All agencies, in having regard to this Code, should seek to optimise the educational opportunities for children with special educational needs.

## Definition of Special Educational Needs

**Children have special educational needs if they have a learning difficulty which calls for special educational provision to be made for them.**

**Children have a learning difficulty if they:**

- (a) have a significantly greater difficulty in learning than the majority of children of the same age; or**
- (b) have a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for children of the same age in schools within the area of the local education authority**
- (c) are under compulsory school age and fall within the definition at (a) or (b) above or would so do if special educational provision was not made for them.**

**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 LEA, other than special schools, in the area**
- (b) for children under two, educational provision of any kind.**

**See Section 312, Education Act 1996**

Children must not be regarded as having a learning difficulty solely because the language or form of language of their home is different from the language in which they will be taught.

## **Definitions in the Children Act 1989 and the Disability Discrimination Act 1995**

**A child is disabled if he is blind, deaf or dumb or suffers from a mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed.**

**Section 17 (11), Children Act 1989**

**A person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities.**

**Section 1(1), Disability Discrimination Act 1995**

**1:4** A child may fall within one or more of the definitions. This Code helps early years education settings, schools and LEAs meet their responsibilities for children with SEN. Guidance relating to Part 4 of the Disability Discrimination Act 1995 will help them meet their responsibilities for disabled children.

## **Fundamental Principles**

**1:5** The detailed guidance in this Code is informed by these general principles and should be read with them clearly in mind:

- a child with special educational needs should have their needs met
- the special educational needs of children will normally be met in mainstream schools or settings<sup>1</sup>
- the views of the child should be sought and taken into account
- parents<sup>2</sup> have a vital role to play in supporting their child's education
- children with special educational needs should be offered full access to a broad, balanced and relevant education, based on the National Curriculum and, for pre-school children, the 'Desirable Outcomes for Children's Learning before Compulsory School Age' prepared by ACCAC.

## **Critical Success Factors**

**1:6**

- the culture, practice, management and deployment of resources in a school or setting<sup>3</sup> are designed to ensure **all children's needs are met**

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1 See Glossary

2 Here, and throughout this Code, 'parents' should be taken to include all those with parental responsibility including corporate parents and carers.

3 Here, and throughout this Code, 'setting' should be taken to include those settings in receipt of Assembly funding to provide nursery education (other than LEAs maintained nursery schools).

- LEAs, schools and settings work together to ensure that any child's special educational needs **are identified early**
- LEAs, schools and settings exploit best practice when devising interventions
- those responsible for special educational provision take into account the **wishes of the child** concerned, in the light of their age and understanding
- special education professionals and **parents** work in **partnership**
- special education professionals take into account **the views of individual parents** in respect of **their child's particular needs**
- interventions for each child are **reviewed regularly** to assess their impact, the child's progress and the views of the child, their teachers and their parents
- there is close co-operation between all the agencies concerned and a **multi-disciplinary approach** to the resolution of issues
- LEAs make assessments in accordance with the **prescribed time limits**
- where an LEA determines a child's special educational needs, statements are **clear and detailed**, made within **prescribed time limits, specify monitoring arrangements, and are reviewed annually.**

### Welsh Language Act 1993

**1:7** The Welsh Language Act 1993 has the fundamental principle that the Welsh and English languages should be treated on the basis of equality in the provision of services to the public in Wales. In their dealings with children and their parents all bodies should fulfil any requirements imposed on them by the Act, and adhere to the policies contained in their Welsh Language Schemes and Welsh Education Schemes. All LEAs, governing bodies and other public bodies should, if notified in accordance with the Act, have Welsh Language Schemes in place. In the context of special educational needs these schemes should ensure that their services, in so far as it is appropriate in the circumstances and reasonably practicable are delivered in Welsh and/or English according to the needs and wishes of the pupil and the parents. Services should be organised to facilitate this and should be equal in terms of quality and coverage to Welsh and English speakers alike. Parity of language provision should be delivered in all services and bodies should also ensure that they communicate with parents in the language of their choice.

**1:8** All other bodies which help pupils and their parents, but which are not covered by the Welsh Language Act, should also, in so far as they are able, ensure that their services are delivered in Welsh and/or English as appropriate. It should be remembered that Welsh or English speaking children and young people's progress will be hindered if they do not receive services in the language in which they are most comfortable, and this applies equally to those pupils receiving Welsh medium, English medium or bilingual education.

**1:9** Appropriate steps should be taken to ascertain the home language of the child at the earliest possible stage in the process of dealing with a child with SEN and Welsh medium services should be available to parents from the outset.

**1:10** LEAs must have regard to meeting the needs of SEN pupils in accordance with parental preference for Welsh medium or English medium educational and educational support provision. Parents who wish their children to receive their education through the medium of Welsh have the right to express that preference under the Education Act 1996. LEAs and Governing Bodies are under a duty to have regard to that preference. When assessing a child's SEN it would not be appropriate to assess the child in a language other than the preferred language of either English or Welsh, and steps should be taken to ensure that all those involved in this process are made aware of the child's language needs.

**1:11** All aspects of the provision and services covered by this Code of Practice should be available in the child's preferred language of English or Welsh or bilingually where appropriate. IEPs should also be provided bilingually as appropriate and take account of the language needs of the child and parents. When a public body has contact with a designated bilingual or Welsh medium school, all written communications and material should be provided either bilingually or through the medium of Welsh. In terms of communicating with parents a key principle will be to provide information and advice in the language which they prefer, and this may mean bilingual provision if one or other parent or guardian is not a fluent Welsh speaker. There will be occasions when the child is a fluent Welsh speaker and receives Welsh medium or bilingual education but where neither parent is a Welsh speaker. Such a situation must always work from the basic principle that English and Welsh are treated on the basis of equality and that a bilingual scenario should be catered for as far as is reasonably practicable.

**1:12** Statutory Advice from the Welsh Language Board to local education authorities states: "Specialist services should be provided for children with SEN who speak Welsh or are educated through the medium of Welsh. These should include support from the sensory disability and physical disability services, speech therapists and the educational psychology service." Bodies should plan strategically for the provision of all SEN services and where they do not have their own specialist staff that are able to work through the medium of Welsh or bilingually in a particular context they should form collaborative arrangements with other authorities or bodies to enable this to happen. For example where a child with SEN from a Welsh speaking home is placed in a special school which operates through the medium of English, the support of a Welsh speaking learning support assistant should be provided as appropriate. This will also be appropriate where a learning support assistant is provided within a mainstream school.

**1:13** Duties to provide SEN services for pupils/students over 16 years of age must also fulfil the requirements of the Welsh Language Act 1993, in terms of educational and other support provision, including those provided by the health and social services professions. Provision for English or Welsh speaking pupils aged 16+ provided by bodies should always take into account the home language of the pupil/student, the medium of instruction used during statutory-aged education and the medium through which any specialist support services such as speech therapy or occupational therapy were provided. Continuity of linguistic provision should be aimed for as a matter of good educational, health and social

care practice in all contexts. Continuity will also be important in terms of link courses and work placements. When Transition Plans are outlined for pupils' continuity of linguistic provision should be considered carefully as part of the assessment of every pupil/student's needs. Similarly, children who are looked after by the local authority should have their Pathway Plans devised either in English, Welsh or bilingually and should have their language needs considered in the same way as other children.

**1:14** In working in partnership with parents (Chapter 2) bodies should remember that early identification of a child's SEN will depend in certain cases on language sensitivity and that Welsh or English speaking parents must have access to information advice and support in the language of their choice. Failing to take account of this may result in parents feeling alienated and thus exclude them from making a critical contribution to the child's progress. In developing parent partnership services including local conciliation arrangements, bodies must ensure that these are accessible to English and Welsh speaking parents and should ensure that any training sessions and support groups make suitable provision for Welsh speaking parents. When schools and LEAs consider the practical help offered to parents and when an Independent Parental Supporter is provided, they should consider language needs as a matter of course. If a child is in residential care or residential place of education, language needs will be equally important in all aspects of provision.

**1:15** Pupil participation strategies (Chapter 3) will need to take account of the need to make Welsh medium or bilingual resources available or at least enable a Welsh or English speaking child to understand fully any information presented other than in his or her preferred language. In other words, Welsh or English speaking pupils participating in any aspect of their SEN provision and assessment should not be disadvantaged because of the medium through which bodies normally communicate. When an advocate or social worker is involved the language needs of the child will be paramount. Bodies should have systems which apply to the needs of Welsh speaking children in advocacy or counselling scenarios in education, health or social care settings.

## **Strategic planning partnerships**

**1:16** Meeting the needs of children and young people with SEN successfully requires partnership between all those involved – LEAs, schools, parents, pupils, health and social services and other agencies. Partnerships can only work when there is a clear understanding of the respective aims, roles and responsibilities of the partners and the nature of their relationships, which in turn depends on clarity of information, good communication and transparent policies.

**1:17** A range of formal planning opportunities exist which relate to all pupils including those with SEN such as the Education Strategic Plan (ESP), the School Organisation Plan, the Early Years Development and Childcare Plan and the Health Improvement Programme. Children's Service Plans and Behaviour Support Plans have a statutory basis, whilst some other plans open the way to resources via, for example, special grants. Some apply to services for all children; others to services for children with particular needs.

**1:18** In all cases, LEAs should work together with their partner agencies to agree local protocols for information collection and management so as to inform planning of provision for children with SEN at both individual and strategic levels.

## **The role of the LEA**

**1:19** The Local Education Authority – School Relations Code of Practice<sup>4</sup> provides broad guidance on the relationships between LEAs, governing bodies<sup>5</sup> and head teachers in their respective roles in achieving excellence for all children. That Code expects LEAs, in partnership with schools, to place the highest priority on their statutory duty to promote high standards of education for all children, including those with SEN.

**1:20** An essential function of the LEA is to make effective arrangements for SEN by ensuring that:

- the needs of children and young people with SEN are identified and assessed quickly and matched by appropriate provision
- high quality support is provided for schools and early years education settings – including, through educational psychology and other support services, and arrangements for sharing good practice in provision for children and young people with SEN
- children and young people with SEN can benefit from co-ordinated provision – by developing close partnerships with parents, schools, health and social services and the voluntary sector
- strategic planning for SEN is carried out in consultation with schools and others to develop systems for monitoring and accountability for SEN
- LEA arrangements for SEN provision are kept under review as required under section 315 of the Education Act 1996.

**1:21** As part of their role in ensuring that needs are matched by appropriate provision, LEAs should work with schools to evaluate the effectiveness of their school funding arrangements in supporting and raising the achievement of children with SEN.

## **LEA policy framework**

**1:22** The Special Educational Needs (Provision of Information by Local Education Authorities) (Wales) Regulations 2002, require LEAs to publish their policies on SEN and information about how the authority is:

- promoting high standards of education for children with SEN
- encouraging children with SEN to participate fully in their school and community and to take part in decisions about their education
- encouraging schools in their area to share their practice in providing for children with SEN

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4 Welsh Office June 1999

5 Or, for pupil referral units, management committees.

- working with other statutory and voluntary bodies to provide support for children with SEN.

**1:23** LEAs must also publish their general arrangements, including any plans setting out objectives, targets and timescales covering local arrangements for:

- identifying children with SEN
- monitoring the admission of children with SEN (whether or not those children have a statement) to maintained schools in their area
- organising the assessment of children's SEN statements, including any local protocols for so doing
- providing support to schools with regard to making provision for children with SEN
- auditing, planning, monitoring and reviewing provision for children with SEN (generally and in relation to individual pupils)
- supporting pupils with SEN through School Action and School Action Plus
- securing training, advice and support for staff working in SEN
- reviewing and updating the policy and development plans on a regular basis
- explaining that element of provision for children with SEN (but without statements) which the LEA expects normally to be met from maintained schools' budget shares and that element of such provision that the authority expects normally to be met from funds which it holds centrally.

**1:24** To fulfil their role effectively, LEAs' planning should provide for the inclusion of children with SEN in mainstream schools. They should monitor and review the role and quality of central SEN support services and parent partnership services; take account of current and predicted pupil numbers; monitor the kinds of needs that are identified and where children are placed; and should develop their SEN policies in consultation with schools and their other partners and keep them under review.

### **The duties of governing bodies<sup>6</sup>**

**1:25** All maintained school governing bodies have important statutory duties towards pupils with special educational needs. Governing bodies should, with the head teacher, decide the school's general policy and approach to meeting pupils' special educational needs for those with and without statements. They must set up appropriate staffing and funding arrangements and oversee the school's work.

**1:26** Governors of community, voluntary and foundation schools, and LEAs in relation to maintained nursery schools, have a duty under s317 of the Education Act 1996 to do their best to ensure that the necessary provision is made for pupils with SEN. The School Standards and Framework Act 1998 requires governors to

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<sup>6</sup> These duties apply to all maintained schools including those with nursery classes.

conduct the school with a view to promoting high standards. These high standards relate to all the pupils in the school including those with SEN.

**1:27** Through the performance management framework the governors should secure that objectives are set for the head teacher. These should include objectives for leadership, management, pupil achievement and progress, and will also relate to priorities in the school development plan. All these objectives should include SEN.

**1:28** Every school must have a 'responsible person' who makes sure that all those who are likely to teach a pupil with a statement of special educational needs are told about the statement. The person is generally the head teacher, but may be the chair of the governing body or a governor appointed by the governing body to take that responsibility.

**1:29** Most governing bodies appoint a governor or sub-committee to have specific oversight of the school's arrangements and provision for meeting special educational needs. The SEN governor's remit does not necessarily need to include the role of 'responsible person.'

**1:30** The governing body of a community, voluntary or foundation school must:

- **do its best to ensure that the necessary provision is made for any pupil who has special educational needs**
- **ensure that, where the 'responsible person' – the head teacher or the appropriate governor - has been informed by the LEA that a pupil has special educational needs, those needs are made known to all who are likely to teach them**
- **ensure that teachers in the school are aware of the importance of identifying, and providing for, those pupils who have special educational needs**
- **consult the LEA and the governing bodies of other schools, when it seems to be necessary or desirable in the interests of co-ordinated special educational provision in the area as a whole**
- **ensure that a pupil with special educational needs joins in the activities of the school together with pupils who do not have special educational needs, so far as is reasonably practical and compatible with the child receiving the special educational provision their learning needs call for and the efficient education of the pupils with whom they are educated and the efficient use of resources**

**The governing body of a maintained school, and the LEA in relation to a maintained nursery school must:**

- **report annually to parents on the implementation of the school's policy for pupils with special educational needs**

**See Section 317, Education Act 1996**

- ensure that parents are notified of a decision by the school that SEN provision is being made for their child. The governing body of a maintained school, and the LEA in relation to a maintained nursery school must:
- report annually to parents on the implementation of the school's policy for pupils with special educational needs

See Section 317A, Education Act 1996

- have regard to this Code of Practice when carrying out its duties toward all pupils with special educational needs

(LEAs have these duties, where relevant, in relation to maintained nursery schools)

See Section 313, Education Act 1996

**1:31** Governors play a major part in school self-review and should establish mechanisms to ensure that they are fully informed about the school, including the systems for and the outcomes of in-school monitoring and evaluation. In relation to SEN, the governing body should make sure that:

- they are fully involved in developing and monitoring the school's SEN policy
- all governors, especially any SEN governors, are up-to-date and knowledgeable about the school's SEN provision, including how funding, equipment and personnel resources are deployed
- SEN provision is an integral part of the school development plan
- the quality of SEN provision is continually monitored.

### **SEN Policies in Early Years Education Settings and Schools**

**1:32** These educational settings and schools **must** have a written SEN policy:

- settings in receipt of Assembly funding for early years education
- maintained nursery schools
- community, foundation and voluntary schools
- community and foundation special schools
- City Academies
- City Technology Colleges
- City Colleges for the Technology of the Arts.

**1:33** The SEN policy must contain the information as set out in the Education (Special Educational Needs) (Information) (Wales) Regulations 1999 or, in the case of early years education settings and City Academies, as set out in the conditions of grant.

**1:34** LEAs are responsible for ensuring that Pupil Referral Units have appropriate SEN policies.

**1:35** As part of their statutory duties, governing bodies of all maintained mainstream schools must publish information about, and report on, the school's policy on special educational needs. This information must be freely available to parents. While the governing body and the head teacher will take overall responsibility for the school's SEN policy, the school as a whole should be involved in its development. Governing bodies of maintained special schools must also publish information about, and report on, their school policies. Schools may also wish to consult the LEA and neighbouring schools in reviewing and revising their policy, in the interests of co-ordinated special educational provision within the area as a whole.

**1:36** As with all policies, the SEN policy should be subject to a regular cycle of monitoring, evaluation and review. Thus governing bodies **must**, on at least an annual basis, consider, and report on, the effectiveness of the school's work on behalf of children with special educational needs. In drawing up their annual report they may wish to consult support services used by the school, other schools and parents. In the light of evaluation and the response to consultation the school should consider whether the policy needs amending.

**1:37** Regulations made under Section 42 of the School Standards and Framework Act 1998 require that the governing body's annual report must include information on the implementation of the governing body's policy on pupils with special educational needs and any changes to the policy during the last year.

### **Roles and Responsibilities in Early Years Education Settings<sup>7</sup>**

**1:38** Provision for children with special educational needs is a matter for everyone in the setting. In addition to the setting's head teacher or manager and the SEN coordinator (SENCO)<sup>8</sup> all other members of staff have important responsibilities. In practice, the division of day-to-day responsibilities is a matter for individual settings.

**1:39** Whatever arrangements are made for meeting the needs of children with SEN in a particular setting, the general duty to identify and make provision for children with SEN remains with the LEA.

### **Roles and Responsibilities in Maintained Mainstream Schools<sup>9</sup>**

**1:40** Provision for pupils with special educational needs is a matter for the school as a whole. In addition to the governing body, the school's head teacher, the SENCO<sup>10</sup> or SEN team and all other members of staff have important responsibilities. In practice the division of day-to-day responsibilities is a matter for individual schools, to be decided in the light of a school's circumstances and size, priorities and ethos.

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7 Providers, in particular accredited childminders who are part of an approved network, may work together to develop their SEN policy.

8 In the case of accredited childminders that are part of an approved network, the SENCO role may be shared between individual childminders and the coordinator of the network.

9 Maintained Mainstream schools include maintained nursery schools where the LEA has ultimate responsibility for carrying out the same functions as undertaken by the Governing Body in a maintained primary or secondary school.)

10 See Glossary.

## Roles and Responsibilities in Special Schools

**1:41** Provision for the pupils is a matter for the school as a whole. In addition to the governing body, the school's head teacher and all other members of staff have important day-to-day responsibilities. Whatever arrangements are made for meeting the needs of children with SEN in a particular special school, the statutory duties remain with the governing body rather than with the school staff.

## School Admissions and Inclusion

**1:42** All schools should admit pupils with already identified special educational needs, as well as identifying and providing for pupils not previously identified as having SEN. Admission authorities may not refuse to admit a child because they feel unable to cater for their special educational needs. Pupils with special educational needs but without statements must be treated as fairly as all other applicants for admission. Admission authorities must consider applications from parents of children who have special educational needs but no statement on the basis of the school's published admissions criteria. Such children should be considered as part of the normal admissions procedures. Admission authorities cannot refuse to admit children on the grounds that they do not have a statement of special educational needs or are currently being assessed.

**1:43** LEAs and school governing bodies, where they are the admissions authority, have a duty to comply with the statutory infant class size limit of 30 pupils<sup>11</sup>. No infant class containing 5, 6 or 7 year olds in a maintained school may contain more than 30 pupils with one qualified teacher except in certain limited circumstances. These include:

- pupils attending mainstream lessons and registered at a special school or who are normally educated in a resourced SEN unit in a mainstream school
- pupils admitted outside the normal admission round to an infant class in a mainstream school with a statement of SEN naming that school may be counted as an exception for the remainder of the academic year of admission.

**1:44** There is a clear expectation within the Education Act 1996 that pupils with statements of special educational needs will be included in mainstream schools. A parents' wish to have their child with a statement educated in the mainstream should only be refused in the small minority of cases where the child's inclusion would be incompatible with the efficient education of other children.

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<sup>11</sup> As of September 2001, all infant classes in Wales have become subject to the statutory infant class size limit. In recognition of the challenge faced by LEAs and schools in achieving the full implementation of the legislative requirement, additional money has been included within the revenue settlement to assist Local Authorities in ensuring that from September 2001 onwards, every infant class has 30 or fewer pupils.

**1:45** If a child has a statement of special educational needs maintained by the LEA, that LEA is responsible for arranging the special educational provision and, in finalising the statement, considering the school's suitability. Where a maintained school is named in a statement of special educational needs, the governing body of the school must admit the child to the school. Further details on the considerations that apply when LEAs name a school in a child's statement are given in Chapter 8.

## Scope for Flexibility

**1:46** The Code advises the adoption of a range of strategies that recognise the various complexities of need, the different responsibilities to assess and meet those needs, and the associated range and variations in provision, which will best reflect and promote common recognition of the continuum of special educational needs.

**1:47** There is scope for flexibility and variation in the responses adopted by schools, early years education settings and LEAs. However, early years education settings, schools and LEAs will need to be able to demonstrate, in their arrangements for children with special educational needs, that they are fulfilling their statutory duty to have regard to this Code. Estyn will consider the effectiveness of their policies and practices and the extent to which they have had regard to this Code.

## 1.48 Roles and Responsibilities

### In Maintained Mainstream Schools

- **the governing body** should, in co-operation with the head teacher, determine the school's general policy and approach to provision for children with SEN, establish the appropriate staffing and funding arrangements and maintain a general oversight of the school's work
- **the governing body** may appoint a **committee** to take a particular interest in and closely monitor the school's work on behalf of children with SEN
- the governing body must report to parents annually on the school's policy on SEN

### In Maintained Special Schools

- **the governing body** should, in co-operation with the head teacher, determine the school's general policy and approach to provision for all pupils, establish the appropriate staffing and funding arrangements and maintain a general oversight of the school's work
- **the governing body** must report to parents annually on the school's policy on SEN
- **the head teacher** has responsibility for the **day-to-day management** of all aspects of the school's work, and will keep the governing body informed

### In Early Years Education Settings

- **the setting's management group** should work with practitioners to determine the setting's general policy and approach to provision for children with SEN
- **the head of the setting** has responsibility for the day-to-day **management** of all aspects of the setting's work, including provision for children with SEN. The head of the setting should keep the management group fully informed and also work closely with the SENCO

### **In Maintained Mainstream Schools**

- **the head teacher** has responsibility for the day-to-day **management** of all aspects of the school's work, including provision for children with SEN. The head teacher should keep the governing body fully informed and also work closely with the school's SEN coordinator or team
- **all teaching and non teaching staff** should be involved in the development of the school's SEN policy and be fully aware of the school's procedures for identifying, assessing and making provision for pupils with SEN
- **the SENCO (or team)**, working closely with the head teacher, senior management and fellow teachers, should be closely involved in the strategic development of the SEN policy and provision. The SENCO has responsibility for day-to-day operation of the school's SEN policy and for coordinating provision for pupils with SEN, particularly through School Action and School Action Plus.

### **In Maintained Special Schools**

- **all teaching and non teaching staff** should be involved in the development of the school's policy and be fully aware of the school's procedures for making SEN provision, and monitoring and reviewing that provision in line with the guidance in the Code.

### **In Early Years Education Settings**

- **all practitioners**<sup>12</sup> should be involved in the development of the SEN policy and be fully aware of the procedures for identifying, assessing and making provision for children with special educational needs
- **the SENCO** working closely with the head of the setting and colleagues, has responsibility for the day-to-day operation of the setting's SEN policy and for coordinating provision for children with SEN, particularly through Early Years Action and Early Years Action Plus.

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<sup>12</sup> Practitioners refers to all those in early years education settings who act as educators.

## 2 Working in Partnership with Parents

### Introduction

**2:1** Partnership with parents plays a key role in promoting a culture of co-operation between parents, schools<sup>13</sup>, LEAs and others. This is important in enabling children and young people with SEN to achieve their potential.

**2:2** Parents<sup>14</sup> hold key information and have a critical role to play in their children's education. They have unique strengths, knowledge and experience to contribute to the shared view of a child's needs and the best ways of supporting them. It is therefore essential that all professionals (schools, LEAs and other agencies) actively seek to work with parents and value the contribution they make. The work of professionals can be more effective when parents are involved and account is taken of their wishes, feelings and perspectives on their children's development. This is particularly so when a child has special educational needs. All parents of children with special educational needs should be treated as partners. They should be supported so as to be able and empowered to:

- recognise and fulfil their responsibilities as parents and play an active and valued role in their children's education
- have knowledge of their child's entitlement within the SEN framework
- make their views known, and have them carefully considered, about how their child is educated
- have access to information, advice and support during assessment and any related decision-making processes about special educational provision.

**2:3** These partnerships can be challenging, requiring positive attitudes by all, and in some circumstances additional support and encouragement for parents.

### Defining Parental Responsibility

**2:4** It is important that professionals understand who has parental responsibility for a child. The Children Act 1989 introduced the concept of parental responsibility. The Act uses the phrase "parental responsibility" to sum up the collection of duties, rights and authority that a parent has in respect of a child. In the event of family breakdown (i.e. separation or divorce) both married parents will normally retain parental responsibility for the child and the duty on both parents to continue to play a full part in the child's upbringing will not diminish. This means that parental responsibility will be shared, often with the parents living in different households. In relation to unmarried parents, only the mother will have parental responsibility unless the father has been granted parental responsibility by the Court or has made a parental responsibility agreement with the mother. Where a Residence Order is in place in respect of a non-parent (e.g. grandparent), that person will have parental responsibility for the duration of the Order.

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<sup>13</sup> Early education settings as well as schools should work in partnership with parents as described in this Chapter.

<sup>14</sup> Here, and throughout this Code, "parents" should be taken to include all those with parental responsibility, including corporate parents and carers.

**2:5** If a child is 'looked after' by a local authority, they may either be on a care order or be voluntarily accommodated. A **Care Order** places a child in the care of a local authority and gives the local authority parental responsibility for the child. The local authority will have the power to determine the extent to which this responsibility will continue to be shared with the parents. A child may also be **accommodated** by the local authority under voluntary arrangements with the child's parents. In these circumstances the parents will retain parental responsibility acting so far as possible as partners of the local authority. Where a child is looked after by a local authority day-to-day responsibility may be with foster parents, residential care workers or guardians.

## **Key principles in communicating and working in partnership with parents**

**2:6** Positive attitudes to parents, user-friendly information and procedures and awareness of support needs are important. There should be no presumption about what parents can or cannot do to support their children's learning. Stereotypical views of parents are unhelpful and should be challenged. All staff should bear in mind the pressures a parent may be under because of the child's needs.

**2:7** To make communications effective professionals should:

- acknowledge and draw on parental knowledge and expertise in relation to their child
- focus on the children's strengths as well as areas of additional need
- recognise the personal and emotional investment of parents and be aware of their feelings
- ensure that parents understand procedures, are aware of how to access support in preparing their contributions, and are given documents to be discussed well before meetings
- respect the validity of differing perspectives and seek constructive ways of reconciling different viewpoints
- respect the differing needs parents may have, such as disability, or communication and linguistic barriers
- recognise the need for flexibility in the timing and structure of meetings.

**2:8** LEAs and schools should always seek parental permission before referring them to others for support (for example the local parent partnership service). Where parents do not wish to have their details passed on to third parties their wishes should be respected.

**2:9** When a child attends a residential school, or is 'looked after' by the local authority and is living away from home, every effort should be made to ensure that parents are encouraged to continue to play an active role in their children's education. Parents' participation in assessment and reviews when a child is away from home is particularly important, because of the need to forward plan for when the child or young person returns to their own community.

## **Schools working in partnership with parents**

**2:10** The school is often the first point of contact for parents. Parents should be fully involved in the school-based response for their child, understand the purpose of any intervention or programme of action, and be told about the parent partnership service when SEN are identified. Schools must tell parents when they first identify that a child has SEN. It is vitally important that schools welcome and encourage parents to participate from the outset and throughout their child's educational career at the school. Schools need to regularly review their policies to ensure that they encourage active partnership with parents and do not present barriers to participation. Schools should seek to actively work with their local parent partnership service.

**2:11** Parents also have a responsibility to communicate effectively with professionals to support their children's education. In working with schools they should:

- communicate regularly with their child's school and alert them to any concerns they have about their child's learning or provision
- fulfil their obligations under home-school agreements which set out expectations of both sides.

## **Supporting parents during statutory assessment**

**2:12** The statutory assessment process can be difficult and challenging for parents. Parents should be fully involved in the discussion leading up to a school's decision to request a statutory assessment. In a minority of cases the proposal to request a statutory assessment may be unexpected and create alarm or anxiety in the family. Whether the school or the parents make a request for a statutory assessment, when a proposed statement is issued the parents will need comprehensive information on the full range of local provision. They may also need additional information and support in visiting schools in order to make an informed choice.

## **LEAs working in partnership with parents**

**2:13** LEAs need to ensure that:

- they are accessible, welcoming and value the views and involvement of parents
- information is available in a range of appropriate languages and variety of media, so that all parents for whom English or Welsh is not their first language, and those with a disability or learning difficulties can access the information.

**2:14** LEAs should work in partnership with local parent and voluntary organisations, as well as the parent partnership service, to produce such materials and ensure that parents receive comprehensive, neutral, factual and appropriate advice.

## Working in partnership with the voluntary sector

**2:15** The voluntary sector has a unique and important contribution to make in supporting parents and providing a range of services for parents. Schools, LEAs and parent partnership services should ensure that families have information on the full range of support services in the voluntary sector within their area. In order that voluntary organisations can play an effective role, LEAs and schools should regularly involve the voluntary sector in consultations, training days and information exchanges. Voluntary groups can be represented on Early Years Development and Child Care Partnerships and participate in a range of consultative activities on local steering or advisory groups relating to the parent partnership service.

### Parent partnership services

**A local education authority must arrange for the parent of any child in their area with special educational needs to be provided with advice and information about matters relating to those needs.**

**LEAs must take whatever steps they consider appropriate to make parent partnership services known to parents, head teachers, schools and others they consider appropriate.**

**See Section 332A, Education Act 1996**

**2:16** All LEAs **must** make arrangements for parent partnership services. It is essential that parents are aware of the parent partnership service so that they know where they can obtain the information and advice they need. LEAs must therefore inform parents, schools and others about the arrangements for the service and how they can access it. LEAs must also remind parents about the parent partnership service and the availability of disagreement resolution services at the time a proposed statement or amendment notice is issued (see Chapter Eight).

**2:17** LEAs do not necessarily have to provide a parent partnership service themselves. They may provide an entirely LEA-based parent partnership service if they wish, or 'buy-in' the service from another provider, or they may choose a mix of the two. In establishing parent partnership services, LEAs are encouraged to work with voluntary groups and organisations to deliver the services which best meet the needs of parents. Where the service is provided 'in-house', LEAs are encouraged to nevertheless ensure they are run at arms' length to ensure parental confidence. However the service is provided, LEAs should meet the **minimum standards** set out below.

**2:18** In delivering effective parent partnership services LEAs are expected to:

- take responsibility for setting and monitoring the overall standard of the service and ensure it is subject to Best Value principles
- set out their funding and budgeting plans for the service (where appropriate the budget should be delegated to the parent partnership service)
- ensure adequate resources and staffing to meet the needs of the parents in their area

- ensure appropriate management structures for the service
- ensure that the service has a development plan which sets out clear targets and is regularly reviewed; such plans should specify short, medium and long term strategies and arrangements for evaluation and quality assurance
- ensure that the service is flexible and responsive to local changes
- ensure that parents and schools are provided with clear information about the parent partnership service, and about the various other sources of support in their area, including statutory and voluntary agencies
- ensure that the service is provided with accurate information on all SEN processes as set out in the Education Act 1996, relevant Regulations, the SEN and Disability Act 2001, the SEN Code of Practice and relevant information about the Disability Discrimination Act 1995
- ensure, where the service is provided in-house, that the staff receive appropriate initial and ongoing training and development to enable them to carry out their role effectively
- establish, where the service is outsourced either wholly or partially, a service level agreement for delivering the service which ensures sufficient levels of resources and training, and clearly set out the quality standards expected of, and the responsibilities delegated to, the provider
- have, irrespective of whether it is outsourced or provided in-house, appropriate arrangements for overseeing and regularly monitoring and reviewing the service, taking account of best practice both locally and nationally
- develop co-operative arrangements with the voluntary sector to ensure the mutual exchange of information and expertise
- promote and facilitate arrangements for the service to work in partnership with other agencies such as health and social services, using local planning structures such as the Education Strategic Plan, Early Years Development and Childcare Plan and Children's Service Plan. Provisions under the Health Act 1999 allow LEAs and health and social services to pool budgetary and management resources; such arrangements might therefore include the provision of joint information services
- actively seek feedback from the service and service users to inform and influence decisions on SEN policies, procedures and practices in order to improve communications and minimise the potential for misunderstandings and disagreements.

**2:19** The aim of parent partnership services is to ensure parents of children with additional needs – including the very young – have access to information, advice and guidance in relation to the special educational needs of their children so they can make appropriate, informed decisions. The service should provide advice to the parents of all children with special educational needs not only those with statements. The prime role of parent partnership services is to help parents whose children have been identified as having special educational needs. However, there will be cases where parents believe that their child has special educational needs, but the school takes a different view. Parent partnership services should be flexible in their approach and handle such cases sensitively and sympathetically. They should consider parents' concerns carefully, try to help and support parents who want information, and not dismiss out of hand any enquiries for assistance or information.

**2:20** Parent partnership services are expected to provide a range of flexible services, including access to an Independent Parental Supporter for all parents who want one, and referral to other agencies, voluntary organisations or parent support groups, which can offer advice and support. However, such referrals should only be made when there is prior agreement with the parent, and with the organisation or support group concerned about the nature and level of the service to be offered.

**2:21** An effective parent partnership service is expected to meet the following **minimum standards** and ensure:

- the provision of a range of flexible services including using their best endeavours to provide access to an Independent Parental Supporter for all parents who want one
- that practical support is offered to parents, either individually or in groups, to help them in their discussions with schools, LEAs and other statutory agencies
- that parents (including all those with parental responsibility for the child) are provided with accurate, neutral information on their rights, roles and responsibilities within the SEN process, and on the wide range of options that are available for their children's education
- that parents are informed about other agencies, such as Health Services, Social Services and voluntary organisations, which can offer information and advice about their child's particular SEN. This may be particularly important at the time the LEA issues a proposed statement
- that, where appropriate and in conjunction with their parents, the ascertainable views and wishes of the child are sought and taken into consideration
- that information about the available services is publicised widely in the area using a variety of means
- the provision of neutral, accurate information for parents on all SEN procedures as set out in SEN legislation and the SEN Code of Practice
- the interpretation of information published by schools, LEAs and other bodies interested in SEN

- that a wide range of information for parents is available in community languages, and to parents who may not be able to gain access to information through conventional means
- that advice on special educational needs procedures is made available to parents through information, support and training
- they use their best endeavours to recruit sufficient Independent Parental Supporters to meet the needs of parents in their area, including arrangements for appropriate training, ensuring that they are kept up to date with all relevant aspects of SEN policy and procedures so that they can fulfil their role effectively
- that training on good communication and relationships with parents is made available to teachers, governors and staff in SEN sections of the LEA
- they work with schools, LEA officers and other agencies to help them develop positive relationships with parents
- they establish and maintain links with voluntary organisations
- that parents' views are heard and understood, and inform and influence the development of local SEN policy and practice
- the regular review of the effectiveness of the service they provide, for instance by seeking feedback from users.

## **Preventing and resolving disagreements**

**A local education authority must make arrangements, that include the appointment of independent persons, with a view to avoiding or resolving disagreements between authorities (on the one hand) and parents of children in their area (on the other) about the way LEAs and maintained schools carry out their responsibilities towards children with special educational needs.**

**A local education authority must also make arrangements with a view to avoiding or resolving disagreements between parents and certain schools about the special educational provision made for their child.**

**LEAs must take whatever steps they consider appropriate to make disagreement resolution services known to parents, head teachers, schools and others they consider appropriate.**

**See Section 332B, Education Act 1996**

**2:22** Parent partnership services can help to prevent difficulties from developing into disagreements. LEAs may helpfully see their parent partnership service as the main approach to preventing disagreements from arising. Using this service is purely voluntary.

**2:23** Parents may wish to access the local disagreement resolution procedures at any time during the SEN process, including where there is a disagreement with the school about any aspect of their child's special educational provision.

**2:24** All LEAs **must** provide disagreement resolution services. They should demonstrate independence and credibility in working towards early and informal resolution of disagreements. It is essential that parents are aware of the arrangements and how and when they can access them. LEAs must therefore inform parents, schools, and others about the arrangements for the service and how they can access it. Parents who have a right of appeal to the SEN Tribunal continue to be able to exercise that right at any stage. LEAs **must** inform parents in writing that their legal right to appeal is not affected by entering into disagreement resolution. Disagreement resolution can run alongside the appeals process.

**2:25** In delivering an effective disagreement resolution service, and in meeting the following **minimum standards**, LEAs:

- should take responsibility for the overall standard of the service and ensure it is subject to Best Value principles
- should have clear funding and budgeting plans for the service
- should ensure that the service is neutral and must involve an independent element
- should ensure that the service, whether outsourced or provided in-house, has a development plan which sets out clear targets and is regularly reviewed. Such plans should specify arrangements for evaluation and quality assurance
- **must** make the arrangements for disagreement resolution and how they will work known to parents, schools and others they consider appropriate
- **must** inform parents about the arrangements for disagreement resolution at the time a proposed statement or amended statement is issued, and that entering disagreement resolution does not affect their right of appeal to the SEN Tribunal
- should ensure that the independent persons appointed as facilitators have the appropriate skills, knowledge and expertise in disagreement resolution; an understanding of SEN processes, procedures and legislation; have no role in the decisions taken about a particular case, nor any vested interest in the terms of the settlement; are unbiased; maintain confidentiality; carry out the process quickly and to the timetable decided by the parties
- should establish protocols and mechanisms for referring parents to disagreement resolution
- should ensure that those providing the service receive appropriate initial and ongoing training and development to enable them to carry out their role effectively

- should establish a service level agreement for delivering the service which ensures sufficient levels of resources and training, and sets out the appropriate standards expected of, and the responsibilities delegated to, the provider
- should have appropriate arrangements for overseeing, regularly monitoring and reviewing the service, taking account of local and national best practice whether the service is provided in-house or bought-in
- should actively seek feedback from the service to inform and influence decisions on SEN policies, procedures and practices
- should monitor and evaluate the performance of the service.

**2:26** The aim of informal disagreement resolution arrangements is to prevent the development of long-term problems thus reducing, in time, the number of appeals going to the SEN Tribunal. Confidence in disagreement resolution arrangements will be greatest when all concerned consider that the service offered is genuinely independent. Most importantly disagreement resolution should ensure that practical educational solutions – acceptable to all parties – are reached as quickly as possible ensuring the minimum disruption to the children’s education.

**2:27** It is envisaged that a facilitator will bring together all of the parties in a non-threatening environment, to seek to resolve the disagreement through discussion and negotiation. The facilitator is not there to determine the outcome. Rather all parties need to openly discuss the issues and the full range of options available, and seek to agree how to resolve the disagreement. Disagreement resolution can be entered into at any point, but will be more commonly used when parents are dissatisfied with the proposed provision for their children. It is not envisaged that the various parties would require legal representation at this stage; that would be contrary to the spirit of informal disagreement resolution. All participants, including the child, need to feel confident that their views and concerns will receive equal respect. The purpose of disagreement resolution is not to apportion blame but to achieve a solution to a difference of views in the best interest of the child.

**2:28** It is essential that independent persons appointed to facilitate disagreement resolution have a range of experience, knowledge and qualifications, for instance:

- training and experience in disagreement resolution
- counselling and negotiation skills
- the ability to establish and maintain communications
- knowledge of SEN legislation and framework, the SEN Code of Practice and other educational issues.

**2:29** There are a number of models that LEAs might adopt to include an independent element in their disagreement resolution arrangements, for instance:

- using a panel of trained facilitators, affiliated to a recognised body in the field of disagreement resolution. LEAs could then buy the services as they were required
- expanding existing disagreement resolution services that cover a wide range of areas across the work of the authority to include SEN expertise
- using regional panels funded by a number of neighbouring LEAs

**2:30** Many organisations have expertise in disagreement resolution and can be a valuable resource in providing trained and experienced independent facilitators. LEAs should therefore consider working in partnership with other organisations in making their arrangements for disagreement resolution services.

## Roles and responsibilities

**2:31** The following table sets out the different roles and responsibilities of local authorities, schools and the voluntary sector. The text in bold denotes statutory duties. Additional guidance about parent partnerships and disagreement resolution can be found in the National Assembly for Wales Handbook of Good Practice for Children with SEN. Detailed guidance about roles and responsibilities concerning parents and particular circumstances is included throughout subsequent chapters of this Code.

### Roles and Responsibilities of Local Education Authorities:

**All LEAs have a statutory duty to provide parent partnership services, but they do not have to deliver the services themselves.**

- Parents and schools should receive clear information about services and providers (including where relevant the involvement of voluntary groups).
- LEAs may wish to develop consultation arrangements with voluntary organisations and parent support groups to ensure that they are aware of local policies and procedures for children with SEN. They should be aware that voluntary groups can make a positive contribution to the development and review of SEN policies and practices.
- LEAs have responsibility for the provision of a wide range of information material for parents.
- LEAs should inform all parents that all maintained schools are required to publish their SEN policy.

### Roles and Responsibilities of the Voluntary Sector:

- Voluntary groups could encourage schools and local authorities to develop partnerships with them, by explaining what services they can offer parents and carers.
- Voluntary groups can facilitate information and explain procedures to parents and talk them through the options available to them.
- Voluntary groups could take a proactive role in parent partnerships. They could develop a sense of ownership, seeking representation on advisory groups and other consultative activities. They could share their experiences of best practice and encourage schools and LEAs to adopt them.

**All LEAs must provide disagreement resolution arrangements that can demonstrate independence and credibility in working towards early and informal dispute resolution. The early resolution of disputes can prevent long-term problems.**

- Disagreement resolution arrangements must include the appointment of persons who are independent of the LEA, the parents, and the professionals involved.
- Provision of flexible services for parents, including access to other agencies and organisations, and, for all parents who want one, access to an Independent Parental Supporter.

### **Roles and Responsibilities of the Parent Partnership Service**

- Provision of accurate, neutral information on parents rights, roles and responsibilities within the SEN process, and on the wide range of options available, to enable them to make informed decisions.
- Training for parents, Independent Parental Supporters and school staff.
- Working with schools, LEA officers and other agencies to help them develop positive relationships with parents.
- Establishing and maintaining links with voluntary organisations.
- Ensuring that parents' views inform and influence the development of local SEN policy and practice.

### **Roles and Responsibilities of Schools:**

- Teachers, SENCOs, pastoral and other staff all have an important role in developing positive and constructive relationships with parents.
- Schools should accept and value the contribution of parents and encourage their participation. Every effort should be made to identify how parents prefer to work with schools, with the recognition that some families will require both practical help and emotional support if they are to play a key role in the education of their children.
- Schools should seek to develop partnerships with local parent support groups or voluntary organisations.

### **All maintained schools must publish their SEN policy.**

- Schools should have a clear and flexible strategy for working with and encouraging parents to play an active role in the education of their children.
- In publishing the school's SEN policy, the school should seek to ensure it is presented in parent friendly formats.

## 3 Pupil Participation

### Introduction

**Children who are capable of forming views have a right to receive and make known information, to express an opinion, and to have that opinion taken into account in any matters affecting them. The views of the child should be given due weight according to the age, maturity and capability of the child.**

**See Articles 12 and 13, The United Nations Convention on the Rights of the Child**

**3:1** All children and young people have rights. Most references to rights are about what is due to children from others, particularly from their parents and the state and its agencies. This chapter is about the right of children with special educational needs to be involved in making decisions and exercising choices.

**3:2** Children and young people with special educational needs have a unique knowledge of their own needs and circumstances and their own views about what sort of help they would like to help them make the most of their education. They should, where possible, participate in all the decision-making processes that occur in education including the setting of learning targets and contributing to IEPs, discussions about choice of schools, contributing to the assessment of their needs and to the annual review and transition processes. They should feel confident that they will be listened to and that their views are valued. However there is "a fine balance between giving the child a voice and encouraging them to make informed decisions, and overburdening them with decision-making procedures where they have insufficient experience and knowledge to make appropriate judgements without additional support."<sup>15</sup>

**3:3** Ascertaining the child's views may not always be easy. Very young children and those with severe communication difficulties, for example, may present a significant challenge for education, health and other professionals. But the principle of seeking and taking account of the ascertainable views of the child or young person is an important one. Their perceptions and experiences can be invaluable to professionals in reaching decisions. LEAs, schools and early education settings should make arrangements to enable this to happen.

### Pupils and parents

**3:4** Many schools have already developed policies and procedures that encourage pupil involvement. This may be easier to achieve where there are strong and explicit procedures for involving children and their families and at all levels in the life of the school. Home – School agreements offer an important opportunity to ensure that pupils as well as parents understand their rights and responsibilities with regard to their schools.

**3:5** Some parents may need support in seeing their children as partners in education; they may be reluctant to involve their child in education decision-making, perhaps considering them ill-equipped to grasp all the relevant factors. If

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<sup>15</sup> From The Children Act 1989 Guidance and Regulations, Vol. 6. Children with Disabilities (1991), HMSO.

the parents' experience of working with professionals has been disappointing, or they perceive their views as being marginalised, they may suspect that professionals may give undue weight to the views of their children. LEAs, schools and settings should show sensitivity, honesty and mutual respect in encouraging pupils to share concerns, discuss strategies and see themselves as equal partners with the school. In instances where parents and pupils may have different views about the origins of and provision for a special educational need these principles will be even more essential to ensure constructive discussions.

### **Pupil participation in early years settings, schools and other settings**

**3:6** All children should be involved in making decisions where possible right from the start of their education. The ways in which children are encouraged to participate should reflect the child's evolving maturity. Participation in education is a process that will necessitate all children being given the opportunity to make choices and to understand that their views matter. Very young children can be encouraged to choose and to share their wishes and feelings with families and staff. 'Desirable Outcomes for Children's Learning Before Compulsory School Age' recognises the importance of children's ability to develop competency and confidence progressively and to have opportunities to develop a range of social as well as educational skills. Confident young children, who know that their opinions will be valued and who can practice making choices, will be more secure and effective pupils during the school years.

**3.7** Practitioners should ensure that where an Individual Education Plan (IEP) is developed the child is involved at an appropriate level. Consultation with young children will necessitate a range of communication strategies, including the use of play, art, audio and video as well as verbal communication. Child development centres, therapy services, social services family centres, day care or other non-educational provision will already know many young children with special educational needs. Partnership between providers will be important in ensuring that the child is encouraged to share their views through the most appropriate adult, and to address any special communication needs.

**3:8** Classroom organisation in the primary phase should include opportunities for choice and decision-making for all children for at least some part of the school day. Such opportunities should ensure that children have sufficient time and encouragement to state their views and to learn how to explain the reasons for their preferences.

**3:9** Pupil participation should be the goal for all children and opportunities for such participation should expand as pupils develop. From an early age, children with SEN should be actively involved at an appropriate level in discussions about their IEPs, including target setting and review arrangements and have their views recorded. Children should be encouraged to share in the recording process and in monitoring and evaluating their own performance.

**3:10** Children and young people who attend special schools should be offered the same opportunities for involvement and participation as their peers in mainstream schools. They may need additional support or time to practise expressing their views. Teachers will need to be sensitive to their views and

wishes and ensure that as they mature their opportunities to participate are fully exploited.

**3:11** Many children will have their special educational needs first identified during the primary phase of education. Schools should be sensitive to the level of understanding and feelings of the child, and provide appropriate information in a non-stigmatising way. If children are involved in the IEP process, then achievements can be noted and celebrated as well as any difficulties clarified and addressed. Recognition of success for all children is integral to the life of all primary schools and successes in meeting targets in IEPs should also be acknowledged.

**3:12** Some children will have contact with a range of professionals such as support and advisory teachers, educational psychologists, therapists, social workers and health professionals, who should listen to the child's views and record those views within any reports or reviews.

**3:13** Where children have attended a primary school that encouraged pupil participation and sought their views on a range of issues, it will be possible to build upon these positive experiences in the secondary sector. Pastoral programmes should ensure that all pupils are involved in and can contribute to both their own education and the wider life of the school. Many secondary schools have school councils or other mechanisms for including and representing all pupils in the organisation and management of the school. All schools should ensure that pupils with special educational needs are fully involved in all aspects of the life of the school and are enabled to have an equal voice. Some young people may need additional support and encouragement, either from a peer or from an adult, in order to participate fully.

**3:14** Pupils with special educational needs should become progressively more involved in setting and evaluating targets within the IEP process. Young people with special educational needs may have low self-esteem and lack confidence. Actively encouraging these pupils to track their own progress and record achievement within a programme of action designed to meet their particular learning or behavioural difficulty will contribute to improved confidence and self-image.

**3:15** Pupils' views should be sought and recorded as part of the statutory annual review process where possible, as well as within the IEP and any other assessment and review. Some young people may wish for personal support and may prefer to express their views through a parent or other family member or an independent supporter such as an advocate, counsellor, social worker or health professional or through peer support. These preferences should be taken seriously. This flexible approach will be effective so long as the school ensures that the support is properly co-ordinated.

**3:16** A child's views can be ascertained at other times as well as during consultation, formal choice and decision-making. Adults can encourage self-advocacy by responding to the messages the child gives. For example, if a pupil's choice of subjects in year 9 does not reflect their expressed interests and aptitudes staff should notice and follow this up. Pupils who are experiencing discrimination or particular barriers to learning because of their special needs should be encouraged to discuss what they would like done about this. By year 9

when the Transition Plan is prepared for those young people with a statement, most young people should be ready to play a constructive role in the transition review process. For some pupils, this may still be through an appropriate adult who records their views. But many pupils will be able and eager to attend the review meeting and to express their views and preferences directly, if they have had relevant information and time for preparation beforehand. Planning for transition necessitates young people being offered accurate information on the options available to them.

**3:17** Relationships between parents and pupils may be sensitive at the time of the year 9 review where transition planning is an integral part of the process. Many parents will feel anxious about post-school options and may be worried about their children's expectations being raised unreasonably about post-school provision and career choices. Other parents may be anxious about the level of support available in the post-school sector. Parents and pupils should have their views listened to and recorded separately and with respect for any differences of opinion. The year 9 annual review offers an opportunity for all concerned to address concerns and to identify any special support in order to achieve the pupil's goals. Planning for transition necessitates young people being encouraged to have high aspirations, offered accurate information on the options available to them, and invited to say what other options they would like considered. Positive planning by schools, LEAs, Careers Wales, The National Council for Education and Training for Wales and other relevant professionals will maximise the contribution of parents and pupils.

### **Involving pupils in assessment and decision making**

**3:18** Children and young people may feel anxious and confused about the purpose of an assessment. They may be concerned about the particular practicalities or possible stigma attached to any special support or programme of work and they may be worried about their longer-term future. Schools and professionals therefore need to:

- provide clear and accurate information about the child's special educational needs and the purpose of any assessment, individual education plan or any intervention
- help the pupil to understand the agreed outcomes of any intervention and how they can be a partner in working towards the goals. Pupils who play an active part in assessment and in developing and monitoring agreed targets will also have greater self esteem and feel confident that they are making progress
- explain clearly what additional support or assessment arrangements are being made and how the pupil can contribute to them
- consult pupils who need individual support (whether through equipment or a learning support assistant) to ensure that such support is provided in a timely and sensitive way and enables them to fully participate in learning
- recognise the potential stress of assessment and review arrangements and do their best to ensure that the pupil understands the role and

contribution of any other professionals from the educational psychology service, child health or social services and Careers Wales, who may be involved

- draw upon the experience of any local pupil support or advocacy services for children which might offer additional advice and assistance
- ensure that the pupil has access to a designated member of staff with whom they can discuss any difficulties or concerns in either Welsh or English, as preferred. It is important that they can feel confident to share any anxieties at an early stage
- be aware that many pupils may already be in contact with other professionals in child health, mental health, social services or other agencies.

**3:19** Parents can assist staff with these goals. In some instances, a pupil may be ‘looked after’ by the local authority and may not have natural parents to provide support<sup>16</sup>. Good communication with the local authority in question will be essential to ensure that the pupil is given positive support and that carers are able and willing to contribute to any educational assessment or programme. The pupil will need to know and understand when the social worker or carer is acting as the corporate parent and when they are acting as advocate for the child.

**3:20** Schools and education authorities should be aware of the wider range of participation and advocacy services for children and young people and their families being developed in partnership with health and social services departments.

## **The LEA’s role in pupil participation**

**3.21** The LEA has a critical role in encouraging and supporting pupil participation across all phases of education. Some LEAs already consult children and young people with special educational needs about how the whole system of assessment, planning and review might be improved to make it more user-friendly, and how they wish to be consulted. LEAs may wish to discuss consultation with children and young people with the relevant health and social services departments and local voluntary organisations.

**3:22** Both school and LEA staff will need information and training on consulting children and young people with communication difficulties. LEAs may wish to develop training options to build the confidence and competence of all staff in working with children, however complex their needs. Learning support staff have a critical role in supporting many children and their training should include an element on pupil participation and the development of communication skills.

**3:23** Participation of pupils will be facilitated if the LEA works with all concerned, including schools, pupils and parents, in order to develop user-friendly information for children and young people. Such information may take the form of printed, video, signed, Brailled or taped information.

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<sup>16</sup> Guidance on the Education of Children Looked After by Local Authorities- National Assembly for Wales.

**3:24** Because some children will need additional support in order to participate in any education decision-making, it is important that the LEA can signpost schools and relevant professionals to different sources.

### **Providing special support**

**3:25** It is important to avoid making assumptions about levels of understanding, particularly amongst very young children and older children with learning, communication or sensory difficulties. These children may need additional help to be able to make their views and wishes known and efforts should be made to arrange for this help to be provided where it is needed.

**3:26** Pupil participation will not only depend upon the quality of educational experience and support offered. Children's progress may be directly affected by anxieties about a special health need or the management of personal care. Pupils should be given the opportunity to talk in private if necessary about their concerns and appropriate action should be taken.

**3:27** Further advice on ways of enabling pupil participation is set out in the National Assembly "Handbook of Good Practice for Children with SEN".

## 4. Identification, Assessment and Provision in Early Years Settings

### Introduction

**4:1** Early Years Development and Childcare Partnerships (EYDCP) bring together maintained, private and voluntary sector providers with LEAs, Social Services departments, health services and parent representatives in the planning and provision of services in the early years education sector.

**4:2** There is a diverse range of early education providers eligible for Partnership funding including maintained mainstream and special schools, maintained nursery schools, independent schools, non-maintained special schools, local authority daycare providers such as day nurseries and family centres, other registered daycare providers such as pre-schools, playgroups and private day nurseries, local authority Portage schemes and accredited childminders working as part of an approved network.

**4:3** All providers of Partnership funded early education, including those outside the maintained sector, are required to have regard to the Code of Practice. This duty is set out in section 313(2) of the Education Act 1996 (in relation to governing bodies and LEAs), and section 4(1) of the Nursery Education and Grant Maintained Schools Act 1996 and section 123 of the School Standards and Framework Act 1998 (in relation to other early education providers).

**4:4** All providers delivering Partnership funded early education are expected to have a written SEN policy. Partnerships with schools and between early years settings are an excellent method of sharing best practice. Such partnership arrangements will be particularly supportive for accredited childminders who are part of an approved network who may wish to work together to develop their SEN policy.

### Provision in the early years

**4:5** There is a recognised relationship between high quality early years provision and effective intervention for children with special educational needs. Between the ages of 3 and 5 most children experience rapid physical, emotional, intellectual and social growth. For many children the early years setting will provide their first experience of learning within a peer group. The ACCAC publication 'Desirable Outcomes for Children's Learning Before Compulsory School Age'<sup>17</sup> gives advice for early education practitioners on providing appropriate learning and teaching experiences of the highest quality, whilst allowing a flexible response to the particular needs of the children to enhance their pre-school learning opportunities.

**4:6** Practitioners should work closely with all parents to listen to their views so as to build on children's previous experiences, knowledge, understanding and skills, and provide opportunities to develop:

- personal and social development
- language, literacy and communication skills

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<sup>17</sup> 'Desirable Outcomes for Children's Learning Before Compulsory School Age', ACCAC, 1999

- mathematical development
- knowledge and understanding of the world
- physical development
- creative development

**4:7** Desirable Learning Outcomes set out what most children will have achieved in each of these areas by the time that they enter Year 1 of primary education. They represent the expected outcomes of a planned approach to early years education that integrates play and learning. Children will progress at different rates during the foundation stage. By the end of the stage, some will have achieved beyond the expectations set out in Desirable Learning Outcomes, whilst others may still be working towards these skills.

**4:8** Children making slower progress may include those who are learning English as an additional language or who have particular learning difficulties. It should not be assumed that children who are making slower progress must, therefore, have special educational needs. But such children will need carefully differentiated learning opportunities to help them progress and regular and frequent careful monitoring of their progress.

### **Graduated response**

**4:9** Monitoring of individual children's progress throughout the early years is essential. Where a child appears not to be making progress either generally or in a specific aspect of learning, then it may be necessary to present different opportunities or use alternative approaches to learning. Ongoing difficulties may indicate the need for a level of help above that which is normally available for children in the particular early years setting.

**4:10** Good practice can take many forms. It is for individual settings to decide the exact procedures they should adopt, and the nature and content of the special educational provision. Early years settings should adopt a graduated response so as to be able to provide specific help to individual young children. This approach recognises that there is a continuum of special educational needs and, where necessary, brings increasing specialist expertise to bear on the difficulties a child may be experiencing.

**4:11** The graduated approach, as described in this Code, should be firmly based within the setting. Once practitioners have identified that a child has special educational needs, the setting should intervene through *Early Years Action*. If the intervention does not enable the child to make satisfactory progress the SENCO may need to seek advice and support from external agencies. These forms of intervention are referred to below as *Early Years Action Plus*.

The setting has a duty to inform the child's parents that special educational provision is being made for the child.

Section 317A, Education Act 1996 as amended by the SEN and Disabilities Act 2001

**4:12** As settings are in day to day contact with parents they are best placed to judge how this should be done so that they can encourage parents to contribute

their knowledge and understanding of their child, and raise any concerns they may have about their child's needs and the provision that is being made for them.

**4:13** The key test for action is evidence that the child's current rate of progress is inadequate. There should not be an assumption that all children will progress at the same rate. A judgement has to be made in each case as to what it is reasonable to expect that particular child to achieve. Where progress is not adequate, it will be necessary to take some additional or different action to enable the child to learn more effectively. Whatever the level of pupils' difficulties, the key test of how far their learning needs are being met is whether they are making *adequate progress*.

**4:14** Adequate progress can be defined in a number of ways. It might, for instance, be progress that:

- closes the attainment gap between the child and the child's peers
- prevents the attainment gap growing wider
- is similar to that of peers starting from the same attainment base-line, but less than that of the majority of peers
- matches or betters the child's previous rate of progress
- ensures access to the full curriculum
- demonstrates an improvement in self-help, social or personal skills
- demonstrates improvements in the pupil's behaviour.

## The Role of the SENCO

**4:15** Early years settings, except specialist SEN provision, will need to identify a member of staff to act as the special educational needs co-ordinator (SENCO)<sup>18</sup>. In the case of accredited childminders who are part of an approved network, the SENCO role may be shared between individual childminders and the co-ordinator of the network. The SENCO should have responsibility for:

- **ensuring liaison with parents and other professionals in respect of children with special educational needs**
- **advising and supporting other practitioners in the setting**
- **ensuring that appropriate Individual Education Plans are in place**
- **ensuring that relevant background information about individual children with special educational needs is collected, recorded and updated**
- **ensuring that parents are aware of the local parent partnership services**

**4:16** The SENCO should take the lead in further assessment of the child's particular strengths and weaknesses; in planning future support for the child in discussion with colleagues; and in monitoring and subsequently reviewing the

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<sup>18</sup> The reference to the SENCO should be taken to mean any practitioner who acts in the capacity of SEN coordinator; this may be the head of the setting.

action taken. The SENCO should also ensure that appropriate records are kept including a record of children at *Early Years Action* and *Early Years Action Plus* and those with statements. The practitioner usually responsible for the child should remain responsible for working with the child on a daily basis and for planning and delivering an individualised programme. Parents should always be consulted and kept informed of the action taken to help the child, and of the outcome of this action.<sup>19</sup>

### **Time required for SEN Co-ordination**

**4:17** The setting's management group and the head of the setting should give careful thought to the SENCO's time allocation in the light of the Code and in the context of the resources available to the setting. Settings may find it effective for the SENCO to be a member of the senior management team.

### **Individual Records**

**4:18** In addition to the information that all settings will record for all children, the pupil record or profile for a child with SEN should include information about the child's progress and behaviour from the early years setting itself, from the parents, and from health and social services. It might also include the child's own perception of any difficulties and how they might be addressed. It may also be necessary to record in the profile information about the child's needs in relation to the general strategies to be used to enable access to an appropriate curriculum and, in a reception class, the school day.

**4:19** The information collected should reveal the different perceptions of those concerned with the child, any immediate educational concerns and an overall picture of the child's strengths and weaknesses.

### **Early Years Action**

**4:20** When an early education practitioner who works day-to-day with the child, or the SENCO, identifies a child with special educational needs, they should devise interventions that are additional to or different from those provided as part of the setting's usual curriculum offer and strategies (*Early Years Action*)

**4:21** The basis for intervention through *Early Years Action* could be the practitioner's or parent's concern about a child who despite receiving appropriate early education experiences:

- makes little or no progress even when teaching approaches are particularly targeted to improve the child's identified area of weakness
- continues working at levels significantly below those expected for children of a similar age in certain areas
- presents persistent emotional and/or behavioural difficulties, which are not ameliorated by the behaviour management techniques usually employed in the setting
- has sensory or physical problems, and continues to make little or no progress despite the provision of personal aids and equipment

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<sup>19</sup> The role of the SENCO set out in this chapter applies to all settings in receipt of Partnership funding for early years education except for LEA maintained nursery schools where the SENCO role will be similar to that in the primary phase.

- has communication and/or interaction difficulties, and requires specific individual interventions in order to access learning.

**4:22** If practitioners in consultation with parents conclude that a child may need further support to help them progress, staff should seek the help of the SENCO.

**4:23** As an important part of the *Early Years Action* the SENCO and colleagues should collect all known information about the child and seek additional new information from the parents. In some cases outside professionals from health or social services or the education psychology service may already be involved with the child. The SENCO should build on the existing knowledge of the child; multi-agency input is often very significant for young children. The educational psychologist also has a key role in the early years of assessment and intervention and in providing support and advice to parents. Educational psychologists can help teachers and parents notice children's individual needs and help them to adjust their response accordingly. In such cases it is good practice for these professionals to liaise with the early years provider and keep them informed of the work in progress. If these professionals have not already been working with the practitioners, the SENCO should contact them if parents agree.

**4:24** The SENCO should ensure that the parents are aware of the local parent partnership services. Parents must be kept fully informed about their child's needs, and are the prime source of information in many cases. The information collected can be maintained as part of the child's individual record that will also include previous observations on the child made as part of the regular assessment and recording systems within the early years setting. Settings should make sure that parents are as fully involved as possible with their child's education and should always be kept fully informed about how the setting is seeking to meet their child's needs.

**4:25** Children with a learning difficulty or developmental delay, and whose parents do not have English or Welsh as a first language, do not have fluent English or Welsh, or are disabled are likely to be particularly disadvantaged if any special educational needs are not identified at the earliest possible stage. Parents may be unable to voice their own concerns because of a lack of a means of communication with the early years provider. Where such difficulties occur, LEAs should ensure that parents and relevant professionals are provided with access to signers or interpreters and translated information material, so that early concerns may be shared about the child's behaviour, health and development. Bilingual support staff, teachers of English or Welsh as an additional language may be able to help and their support should be enlisted from the outset. Parent partnership services, discussed fully in Chapter Two, will also be a source of advice and support. Without such support early identification and intervention may be delayed or ineffective.

### **Nature of Intervention**

**4:26** The SENCO and the child's teacher, in consultation with parents, should decide on the *Action* needed to help the child to progress in the light of their earlier assessment. There is sometimes an expectation that *Action* will comprise support in the form of the deployment of extra staff to enable one-to-one tuition to be given to the child. This may not be the most appropriate way of

helping the child. The *Action* should enable the very young child with special educational needs to learn and progress to the maximum possible. The key lies in effective individualised arrangements for learning and teaching. The resources might be extra adult time in devising the nature of the planned intervention and monitoring its effectiveness; the provision of different learning materials or special equipment; some individual or group support or staff development and training to introduce more effective strategies. Speedy access to LEA support services for one-off or occasional advice on strategies or equipment or for staff training may make it possible to provide effective intervention without the need for regular or ongoing input from external agencies.

## Individual Education Plans

**4:27** Strategies employed to enable the child to progress should be recorded within an Individual Education Plan (IEP); this should include information about the short-term targets set for the child, the teaching strategies and the provision to be put in place, when the plan is to be reviewed, and the outcome of the action taken. The IEP should only record that which is additional to or different from the differentiated curriculum plan that is in place as part of normal provision. The IEP should be crisply written and may focus on three or four key targets. IEPs should be written in Welsh, English or bilingually if appropriate. IEPs, and the ways in which they can help, should be discussed with parents and the child.

## Reviewing IEPs

**4:28** Ideally, IEPs should be continually kept 'under review,' and in such circumstances there cannot simply be a 'fixed term' or a formal meeting for review. However, IEPs should be reviewed regularly and at least three times a year. Reviews need not be unduly formal, but parents' views on the child's progress should be sought, and they should be consulted as part of the review process. Further advice on IEPs and on involving pupils can be found in the National Assembly Handbook of Good Practice for Children with SEN.

## Early Years Action Plus

**4:29** *Early Years Action Plus* is characterised by the involvement of external support services who can help early education providers with advice on new IEPs and targets, provide more specialist assessments, give advice on the use of new or specialist strategies or materials, and in some cases provide support for particular activities. The kinds of advice and support available to early years settings will vary according to local policies. LEAs have the power, under section 318(3) of the Education Act 1996 to supply goods and services to assist early years settings outside the maintained sector in supporting children eligible for Assembly funding who have special educational needs but do not have a statement.

**4:30** A request for help from external services is likely to follow a decision taken by the SENCO and colleagues, in consultation with parents, at a meeting to review the child's IEP. The review should consider:

- has progress been made?
- what are the parents' views?
- is there a need for more information or advice about the child?

**4:31** The basis for requesting the involvement of outside agencies could be that, despite receiving an individualised programme and/or concentrated support, the child:

- continues to make little or no progress in specific areas over a long period
- continues working at an early years curriculum substantially below that expected of children of a similar age
- has emotional or behavioural difficulties which substantially and regularly interfere with the child's own learning or that of the group, despite having an individualised behaviour management programme
- has sensory or physical needs, and requires additional equipment or regular visits for direct intervention or advice by practitioners from a specialist service
- has ongoing communication or interaction difficulties that impede the development of social relationships and cause substantial barriers to learning.

**4:32** Where an early years education setting seeks the help of external support services, those services will need to see the records on the child held by the provider, in order to establish which strategies have already been employed and which targets have been set and achieved. They will usually then see the child, in their educational setting if that is appropriate and practicable, so that they can advise on new and appropriate targets for the child's IEP and accompanying strategies.

### **Requests for statutory assessment**

**4:33** For a very few children the help given by the early education provider through *Action Plus* will not be sufficiently effective to enable the child to progress satisfactorily. It will then be necessary for the provider, in consultation with the parents and any external agencies already involved, to consider whether a statutory multi-disciplinary assessment may be appropriate.

**4:34** Parents, schools, including nursery schools, and early years education settings in receipt of Partnership funding can make a request to the LEA for a statutory assessment. Settings in receipt of Partnership funding to provide early years education, other than maintained nursery schools or nursery classes in maintained schools, currently only have a statutory right to request an assessment for four and five year olds for whom they provide nursery education (those children for whom the LEA must secure education under section 118 of the School Standards and Framework Act).<sup>20</sup> The LEA is then responsible for determining whether a statutory assessment is required.

**4:35** Where a request for statutory assessment is made to an LEA, the child will have demonstrated significant cause for concern. The LEA will seek evidence that any strategy or programme implemented for the child in question has been continued for a reasonable period of time without success. The LEA will need clear documentation in relation to the child's special educational needs and any

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20 By September 2004 LEAs' duties under section 118 will extend to three year olds. When this happens, the right to request assessments will automatically be extended to cover requests in respect of three year olds.

action taken to deal with those needs. Each LEA will have its own systems of referral. In deciding whether to make an assessment for a particular child, LEAs should, wherever possible, take into account existing information including IEPs rather than asking for further fresh written evidence.

**4:36** In a very few cases where there are severe and complex needs the extent of the child's needs will be evident. In such cases requests for assessment might be made prior to any early education intervention, and there should be no need for reports from all the agencies involved with the child before the LEA can reach a decision. The LEA should act on reports from the professionals most closely involved with the child.

## **Child Health Services in the early years**

**Health Authorities and National Health Service (NHS) Trusts must inform the parents and the appropriate LEA when they form the opinion that a child under compulsory school age may have special educational needs. They must also inform the parents if they believe that a particular voluntary organisation is likely to be able to give the parents advice or assistance in connection with any special educational needs that the child may have.**

**See Section 332, Education Act 1996**

**4:37** The child health services must alert the parents and the LEA to the child's potential difficulties. A child development centre or team may provide a multi-professional view at an early stage. Early contact with child health services will be important in order to ensure that there is no physical cause for the difficulty in question (such as a hearing or visual impairment) or to secure advice on the possible cause and the effective management of difficult behaviour. Children's development and subsequent progress in school will also be affected by their general health status. All early years settings should be aware of how to obtain information and advice on health related matters, using the school health service, the child's general practitioner or a relevant member of the child development centre or team. Where a setting wants advice about a particular child they should ensure that parents have given consent to this being obtained.

**4:38** Where a health authority or Trust (perhaps on the basis of information provided by a general practitioner) consider that a child might have special educational needs, they **must** inform the parents of their views and give the parents an opportunity to discuss those views with an officer of the health authority or Trust (usually a doctor who has appropriate knowledge and experience). They **must** then inform the relevant LEA.

## **Statutory assessment of children under compulsory school age**

**4:39** Chapter Seven sets out the statutory procedures for assessment. The time limits and other statutory procedures for deciding whether to carry out a multi-disciplinary assessment for a child under compulsory school age (and over two) and for making the assessment and producing a statement are the same as for children of school age.

**4:40** The parents' perspective is particularly important when assessing the special educational needs of young children. LEAs should consider using explanatory leaflets or guidelines for parents to encourage their participation. Such information could also include an explanation of the support available for children within early years settings through *Early Years Action* and *Action Plus*, an explanation of parents' rights in relation to requesting a statutory assessment, and information about the circumstances in which the LEA would consider giving a child a statement. LEAs should also ensure that parents are offered the full range of parent partnership services as described in Chapter Two of this Code.

### **Criteria for statutory assessment of children under compulsory school age and over two**

**4:41** In considering statutory assessment, where the child is attending an early years setting, the LEA should ask the following questions:

- a. what difficulties have been identified by the setting? Have the practitioners provided individualised strategies through *Early Years Action* and *Early Years Action Plus* to assist the child?
- b. has outside advice been sought, regarding the child's:
  - physical health and functioning
  - communication skills
  - perceptual and motor skills
  - self-help skills
  - social skills
  - emotional and behavioural development
  - responses to learning experiences
- c. have parental views been considered?

**4:42** Where a child is not attending an early years setting the LEA should try to collect as much information as is possible before deciding whether to assess.

**4:43** The LEA will then assess the evidence and decide whether the child's difficulties or developmental delays are likely to be addressed only through a statement of special educational needs. Where a child's educational needs appear to be sufficiently severe or complex as to require attention for much of the child's school life, or that the evidence points to the need for specialist early intervention that cannot be provided in the current setting, then the LEA is likely to conclude that an assessment is necessary.

### **Statements for children under compulsory school age and over two**

**4:44** Where children aged between two and five have such severe and complex needs that statutory procedures are essential in order to maximise their opportunities, the statement will follow the same format as for any other

children. The contributions of non-educational service providers are likely to be of key importance.

**4:45** LEAs should note that parents of children under five and over two may express a preference for a maintained school to be named in their child's statement. The LEA must name the school the parents name so long as it meets the criteria set out in Schedule 27 of the Education Act 1996. (See 8:58). A key issue is likely to be whether a school is suitable for the child's age. The parents may also make representations in favour of a non-maintained or independent school or a private or voluntary early years setting for their child. If the LEA considers such provision appropriate, it is entitled to specify this in the statement and if it does, must fund the provision. There is, however, no point in doing this for settings outside the maintained sector unless the setting agrees as the LEA cannot require an independent or voluntary setting to admit a child. The LEA should ensure that parents have full information on the range of provision available within the authority and may wish to offer parents the opportunity to visit such provision and discuss any aspect of the provision with the Named LEA Officer (see Glossary).

**4:46** LEAs should consider informally reviewing a statement for a child under five at least every six months to ensure that the provision continues to be appropriate to the child's needs. Such reviews would complement the statutory duty to carry out an annual review in accordance with the Regulations but would not necessarily require the same range of documentation so long as they reflected the significant changes which can take place in the progress of a child under the age of five. If necessary the statement should be amended following a six monthly review.

### **Statutory assessment of children under two**

**If an LEA believe that a child in their area who is under the age of two may have special educational needs for which the LEA should determine the special educational provision, the LEA may make an assessment of their educational needs if the parent consents to it, and must make such an assessment if the parent requests it. Such an assessment shall be made in such a manner as the authority consider appropriate. Following such an assessment, the LEA may make and maintain a statement of the child's special educational needs in such manner, as they consider appropriate**

**See Section 331, Education Act 1996**

**4:47** When a child under two is referred to the LEA, it is probable that their parents or the child health services will have first identified any special needs. In some areas of the country Sure Start programmes will have not only identified the child but also co-ordinated access to relevant services. They will continue to offer support to the family after the child has been made known to statutory services. The child is likely to have a particular condition or to have a major health problem that has caused concern at an early stage. Assessment of children under two need not follow the statutory procedures that are applicable to assessments of children who are aged two and over.

## Statements for children under two

**4:48** Statements will be rare for children under two. The LEA should first consider individual programmes of support according to the child's particular needs. The procedures are not specified in legislation. But while LEAs may prefer to make voluntary agreements to cover such arrangements, they should be aware that a parental request for a statutory assessment could indicate that those arrangements are insufficient. For very young children LEAs should consider home-based programmes such as Portage, if available, or peripatetic services for children with hearing or visual impairment. Parents should be consulted about the nature of the help and support that they would like to receive; some may prefer to attend a centre or to combine home-based with centre-based support.

**4:49** If a decision is made to issue a statement, usually because of the child's complex needs or to allow access to a particular service such as a home-based teaching or a developmental play programme, it should include:

- **all available information about the child, with a clear specification of the child's special educational needs**
- **a record of the views of the parents and any relevant professionals**
- **a clear account of the services being offered, including the contribution of the education service and the educational objectives to be secured and the contribution of any statutory and voluntary agencies**
- **a description of the arrangements for monitoring and review.**

**4:50** LEAs should ensure that any specific educational targets are regularly reviewed and, if necessary, revised. Any action will require close collaboration with child health services and social services.

## Special educational provision for children under compulsory school age

**4:51** For very young children, access to a home-based learning programme, such as the Portage Home Teaching Programme, or the services of a peripatetic teacher for the hearing or visually impaired, may provide the most appropriate support or advice. In the case of a child with a behavioural difficulty, the advice of the clinical psychologist at a child development centre or an educational psychologist may enable the child to remain within an existing setting. In most instances there should be a decision that the child can attend, or continue to attend, mainstream early years provision, but with additional support or resources. For some children it may be more appropriate for them to transfer to a specialist provision. Parents should be kept informed and consulted throughout the process of such decisions.

**4:52** The Early Years Development and Childcare Partnership and the LEA should have information on nursery school or class places for children with special educational needs; and about places in independent and voluntary play or opportunity groups, family centres, day nurseries or other provision for young children in that authority. Partnerships are required to include this information in the EYDCP Plan. Social services departments will be able to provide information

on provision for young children 'in need'. The provision of services for children under compulsory school age is also subject to that which is noted in 1:7-1:15 in terms of Welsh medium and bilingual provision.

**4:53** If a child is on a local authority child protection register, or where there is concern about a child's welfare, the LEA and social services department should consider jointly agreeing an arrangement for identifying a child's needs and specifying and monitoring the provision to meet such needs. This should be done sensitively and with regard for the confidentiality of the information. If the child is looked after by the local authority - living with a foster parent or in a residential setting – the LEA's assessment could form part of the child's Care Plan and be regularly reviewed.

### **Moving to primary school**

**4:54** In some instances a child under five may have received considerable support without the necessity of making a statement. If it is decided that the child's needs are such that they will require a statement prior to entering primary school, careful attention should be paid to the parents' views and to information available from the full range of assessment arrangements within all the relevant agencies making provision for young children with special needs. Particular attention should be given to the child's general health and development and home circumstances to ensure that a learning difficulty is not directly related to wider family problems. Any record drawn up by an early years setting for a child with a possible special need should be passed on to the school with the parent's consent. The importance and benefits to their child of providing these records to schools should be carefully explained to parents.

**4:55** The LEA should ensure that appropriate support is provided for the parents in order that they can make a full contribution to their child's progress at school. Parents should be provided with full information to enable them to express a preference for an appropriate primary school or to make representations for an independent or non-maintained special school. Detailed consideration of the kinds of provision that may be appropriate at the primary phase should be undertaken as part of the annual review process as described in Chapter Nine.

## 5. Identification, Assessment and Provision in the Primary Phase

### Introduction

**5:1** Most children admitted to an infant or primary school will already have attended an early years setting. Some will not. Children with special educational needs who have attended a nursery class, playgroup or other early years setting should have had their needs identified already. Others may not. Schools should therefore be aware that any child admitted to the reception class might have unidentified special educational needs. The same applies to children who transfer from one school to another during the primary phase.

**5:2** Provision for children with special educational needs is a matter for the school as a whole. In addition to the governing body, the school's head teacher, the SENCO and all other members of staff have important day-to-day responsibilities. *All teachers are teachers of children with special educational needs.* Teaching such children is therefore a whole school responsibility. In practice, the way in which this responsibility is exercised by individual staff is a matter for schools, to be decided in the light of a school's circumstances and size, priorities and ethos.

**5:3** At the heart of the work of every primary school class is a continuous cycle of planning, teaching and assessing which takes account of the wide range of abilities, aptitudes and interests of children. The majority of children will learn and progress within these arrangements.

**5:4** The National Curriculum programmes of study for key stages 1 and 2 set out the knowledge, understanding and skills expected of children in this age group. As part of the normal school arrangements, teachers plan from the National Curriculum programmes of study, using all the available flexibilities<sup>21</sup> and make judgements about children's performance in relation to the appropriate level descriptions.

**5:5** Assessment against the National Curriculum level descriptions for each subject will enable the school to consider the individual child's attainment and progress against the expected levels for the majority of their peers. Progress in literacy and mathematics also provides a basis for assessment against national norms. Those children whose overall attainments or attainment in specific subjects fall significantly outside the expected range may have special educational needs.

**5:6** The assessment process should always be fourfold. It should focus on:

- the child's learning characteristics,
- the learning environment that the school is providing for the child,
- the task and
- the teaching style.

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<sup>21</sup> National Curriculum (Wales) (Orders) 2000 incorporates an access statement which provides flexibility to enable teachers to select content from earlier or later key stage programmes of study if this is appropriate to the needs of individual pupils

It should be recognised that some difficulties in learning may be caused or exacerbated by the school's learning environment or adult/child relationships. This means looking carefully at such matters as classroom organisation, teaching materials, teaching style and differentiation in order to decide how these can be developed so that the child is enabled to learn effectively.

## **Provision in primary schools<sup>22</sup>**

**5:7** All schools will wish to assess each child's current levels of attainment on entry in order to ensure that they build upon the pattern of learning and experience already established during the child's pre-school years. Schools should make full use of information passed to them when the child transfers from early years education provision. Early years education settings will maintain records on every child, and these will be a useful starting point for all children. This also applies to children who transfer between schools within the primary phase. Some children's performance can be exceptionally varied across settings. Therefore, where possible, it is important to look for multiple sources of evidence of children's performance in different roles and situations.

**5:8** Schools should bear in mind that early years education settings are required to have regard to this Code of Practice and are expected to plan for children with special educational needs but without statements through Early Years Action and Early Years Action Plus. Thus where a child starting school has already been identified as having special educational needs, the school should have access to records that will include the child's earlier IEPs. The child's IEPs will have been written in the context of the Desirable Outcomes and the National Curriculum, recording aspects that were additional to or different from the differentiated approaches and learning arrangements normally provided for all children.

**5:9** The outcome of baseline assessment, which is considered in relation to all children shortly after they start primary school, may indicate areas of concern. Although the assessment is not specifically designed to identify those children with special educational needs, it should alert teachers to children who have particular difficulties, some of whom might have special needs.

**5:10** Thus, if a child has an identified special educational need when they start primary school, the head teacher, SENCO and the child's class teacher should:

- **ensure that the child's learning styles are taken into account**
- **use information arising from the child's previous educational experience to provide starting points for the development of an appropriate curriculum for the child**
- **identify and focus attention on the child's skills and highlight areas for early action to support the child within the class**
- **use the curricular and baseline assessment processes to allow the child to show what they know, understand and can do, as well as to identify any learning difficulties**

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<sup>22</sup> The term 'primary school' in this Chapter refers to any maintained primary or middle school that is a community, foundation or voluntary school. It also includes those community or foundation special schools with pupils of the relevant age group (other than special schools established in hospitals).

- **ensure that ongoing observation and assessment provide regular feedback to teachers and parents about the child's achievements and experiences and that the outcomes of such assessment form the basis for planning the next steps of the child's learning**
- **involve parents in developing and implementing a joint learning approach at home and in school.**

## **Early identification**

**5:11** The importance of early identification, assessment and provision for any child who may have special educational needs cannot be over-emphasised. The earlier action is taken, the more responsive the child is likely to be, and the more readily can intervention be made without undue disruption to the organisation of the school. Assessment should not be regarded as a single event but rather as a continuing process.

**5:12** If a child's difficulties prove to be transient, the child will subsequently be able to learn and progress normally. If the child's difficulties prove less responsive to the provision made by the school, then an early start can be made in considering the additional help the child may need.

**5:13** To help identify children who may have special educational needs, schools can measure children's progress by referring to:

- their performance monitored by the teacher as part of ongoing observation and assessment
- the outcomes from baseline assessment results
- their progress in literacy and numeracy
- their performance against the level descriptions within the National Curriculum at the end of a key stage
- standardised screening or assessment tools.

**5:14** Schools should also be open and responsive to expressions of concern by parents, and take account of any information that parents provide about their child.

## **English or Welsh as an additional language**

**5:15** The identification and assessment of the special educational needs of children whose first language is not English or Welsh, requires particular care. It is necessary to consider the child within the context of his or her home, culture and community. Where there is uncertainty about an individual child, schools should make full use of any local sources of advice relevant to the ethnic group concerned, drawing on community liaison arrangements wherever they exist.

**5:16** Lack of competence in either English or Welsh must not be equated with learning difficulties as understood in this Code. At the same time, when children who have English or Welsh as an additional language make slow progress, it should not be assumed that their language status is the only reason; they may have learning difficulties. Schools should look carefully at all aspects of a child's

performance in different subjects to establish whether the problems they have in the classroom are due to limitations in their command of the language that is used there or arise from special educational needs. At an early stage a full assessment should be made of the exposure they have had in the past to each of the languages they speak, the use they make of them currently and their proficiency in them. The information about their language skills obtained in this way will form the basis of all further work with them both in assisting their learning difficulties and in planning any additional language support that is needed.

## **National Curriculum**

**5:17** The National Curriculum is a statutory requirement for all<sup>23</sup> maintained schools<sup>24</sup> that sets out the areas and content of learning in each key stage. It secures access to essential areas of learning and provides for the development of the knowledge, understanding and skills that children will need in order to become active and responsible citizens. All schools will through their cycle of observation, assessment, planning and review make provision for increased curriculum differentiation, curricular adaptations, and pastoral or disciplinary procedures dependent on the individual child's strengths and weaknesses. A variety of approaches should be employed to maximise the achievement of all pupils. These kinds of arrangements apply to all children and are not part of special educational provision.

**5:18** Effective management, school ethos and the learning environment, curricular, pastoral and discipline arrangements can help prevent some special educational needs arising, and minimise others. Differentiation of learning activities within the primary curriculum framework will help schools to meet the learning needs of all children. Schools should not assume that children's learning difficulties always result solely, or even mainly, from problems within the child. A school's own practices make a difference - for good or ill. The governing body, head teacher and SENCO should be alert to any particular patterns in the school's identification and recording of children's special educational needs or parents' expressions of concern, and should examine the school's general practices and policies in the light of any such patterns.

**5:19** Thus, all primary schools should consider the kinds of options and the variety of activities available within the class setting to enable children to access the National Curriculum. Teachers' planning should be flexible in order to recognise the needs of all children as individuals and to ensure progression, relevance and differentiation. The National Curriculum Access Statement emphasises the importance of teaching the programme of study for each key stage to pupils in ways appropriate to their developing maturity and abilities. It also provides flexibility to enable teachers to select content from earlier/later key stage programmes of study to ensure that learning opportunities are appropriate to the needs of individual pupils. The common requirements also provide a framework to help teachers use National Curriculum subjects as contexts to meet pupils' more complex needs.

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<sup>23</sup> The statutory framework is set out in Part V of the Education Act 1996 and orders made under those provisions.

<sup>24</sup> The National Curriculum (Wales) Orders 2000 is not a requirement for Pupil Referral Units or hospital special schools.

## Graduated response

**5:20** In order to help children who have special educational needs, schools in the primary phase should adopt a graduated response that encompasses an array of strategies. This approach recognises that there is a continuum of special educational needs and, where necessary, brings increasing specialist expertise to bear on the difficulties that a child may be experiencing. However the school should, other than in exceptional cases, make full use of all available classroom and school resources before expecting to call upon outside resources.

**5:21** This Code sets out a model of action and intervention that is designed to help children towards independent learning. In particular, it sets out the procedures community, voluntary and foundation schools might adopt in order to fulfil their duty to use their best endeavours on behalf of children with special educational needs. In many cases the action taken will mean that the child's needs are resolved. Only for those children whose progress continues to cause concern should additional action be taken. For children in the primary phase this Code recommends that when a child is identified as having special educational needs the school should intervene as described below at *School Action* and *School Action Plus*.

**5:22** These interventions will not usually be steps on the way to statutory assessment. Nor are they hurdles to be crossed before a statutory assessment can be made. Some children will require less rather than more additional help if the interventions work successfully. The interventions are a means of matching special educational provision to the child's needs, and are therefore part of the continuous and systematic cycle of planning, action and review within the school to enable all children to learn and progress.

**5:23** Good practice can take many different forms. Even those schools that decide to follow the Code's model closely may need to make adjustments to reflect their particular circumstances. The model applies to maintained primary schools other than special schools but might be adopted differently in, for example, a small rural primary school and a large inner-city junior school. The model nonetheless embodies the principles set out below, which are central to this Code and to which all schools **must** have regard:

- **provision for a child with special educational needs should match the nature of their needs**
- **there should be regular recording of a child's special educational needs, the action taken and the outcomes.**

## Record keeping

**5:24** Schools should record the steps taken to meet the needs of individual children. The school's SENCO should have responsibility for ensuring that the records are properly kept and available as needed. If schools refer a child for a statutory assessment, they should provide the LEA with a record of their work with the child including the resources or special arrangements they have already made available. LEAs and schools may wish to consider the use of an agreed style for IEPs at *School Action* and *School Action Plus*. This may be particularly helpful in ensuring that information effectively transfers between schools. The Education

(Individual Pupils' Achievements) (Information) (Wales) Regulations 1997 (as amended) require schools to provide full pupil records to the receiving school even if the new school does not lodge a request. Such records should include all the information held by the SENCO including IEPs.

**5:25** In addition to the information that all schools will record for all children, the pupil record or profile for a child with SEN should include information about the child's progress and behaviour from the school setting itself, from the child's early years setting or a previous school, from the parents, and from health and social services. It should also include the child's own perception of any difficulties and how they might be addressed. It may also be necessary to record in the profile information about the child's needs in relation to the general strategies to be used to enable access to the curriculum and the school day.

**5:26** The information collected should reveal the different perceptions of those concerned with the child, any immediate educational concerns and an overall picture of the child's strengths and weaknesses.

### **Working with other providers of support**

**5:27** Many children with special educational needs have a range of difficulties and the achievement of educational objectives is likely to be delayed without partnership in the child's education between all concerned. Thus support for children with special needs requires a concerted approach from healthcare professionals, social services departments, specialist LEA support services and other providers of support services. All these services should aim to provide an integrated service for the child so that parents perceive the provision as 'seamless'. They should keep one another fully informed about the action taken in support of the child. Under the Children Act 1989 and the Education Act 1996 schools, LEAs, the health services and the social services departments of local authorities are required to help each other in various ways. Further guidance on other agencies is set out in Chapter Ten.

### **Involvement of social services**

**5:28** Schools should be aware of the full range of local services provided by social services departments (SSDs). SSDs have duties under section 17 of the Children Act 1989 to provide a range of services for children regarded as being 'in need' (see Glossary). While a child with special educational needs will not necessarily be 'in need' as defined in the Children Act 1989, that Act allows an integrated approach to the educational, health and welfare needs of children with special educational needs who are 'in need'. It also requires LEAs and others to assist social services departments if a child is suffering or at risk of suffering significant harm (section 47 of the Children Act 1989).<sup>25</sup>

**5:29** The designated teacher for 'looked after' children should work closely with the SENCO when the child also has SEN. Schools should also ensure that where a child is 'looked after'<sup>26</sup> by the local authority both the child's social worker, and where possible, the parents are involved in their child's education and all processes relating to special educational needs.

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<sup>25</sup> National Assembly publication 'Framework for Assessment of Children in Need' 2001

<sup>26</sup> National Assembly Guidance on 'The Education of Children Looked After by Local Authorities'.

## **The Role of the SENCO in mainstream primary schools<sup>27</sup>**

**5:30** The SEN Coordinator (SENCO), in collaboration with the head teacher and governing body, plays a key role in determining the strategic development of the SEN policy and provision in the school in order to raise the achievement of children with SEN. The SENCO takes day-to-day responsibility for the operation of the SEN policy and co-ordination of the provision made for individual children with SEN, working closely with staff, parents and carers, and other agencies. The SENCO also provides related professional guidance to colleagues with the aim of securing high quality teaching for children with SEN.

**5:31** The SENCO, with the support of the head teacher and colleagues, seeks to develop effective ways of overcoming barriers to learning and sustaining effective teaching through the analysis and assessment of children's needs, by monitoring the quality of teaching and standards of pupils' achievements, and by setting targets for improvement. The SENCO should collaborate with curriculum coordinators so that the learning for all children is given equal priority, and available resources are used to maximum effect.

**5:32** In mainstream primary schools the key responsibilities of the SENCO may include:

- **overseeing the day-to-day operation of the school's SEN policy**
- **coordinating provision for children with special educational needs**
- **liaising with and advising fellow teachers**
- **managing learning support assistants**
- **overseeing the records of all children with special educational needs**
- **liaising with parents of children with special educational needs**
- **contributing to the in-service training of staff**
- **liaising with external agencies including the LEA's support and educational psychology services, health and social services, and voluntary bodies.**

### **Time required for SEN coordination**

**5:33** Governing bodies and head teachers will need to give careful thought to the SENCO's timetable in the light of the Code and in the context of the resources available to the school. Experience shows that SENCOs require time for: planning and coordination away from the classroom; maintaining appropriate records including a record of children at *School Action* and *School Action Plus* and those with statements; teaching pupils with SEN; observing pupils in class without a teaching commitment; managing, supporting and training Learning Support Assistants; liaising with colleagues and with early years settings and secondary schools. Access to a telephone and an interview room is also desirable where possible. In many schools the governing body has been able to allocate

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<sup>27</sup> TTA 'National Standards for Special Educational Needs Coordinators' provides guidance on training and development for SENCOs.

some administrative staff time to help the SENCO, thus releasing the SENCO to use their expertise more effectively.

**5:34** In most schools the SENCO duties will be a specific responsibility for one member of staff. In terms of responsibility the SENCO role is at least equivalent to that of curriculum coordinator. The role is time consuming and therefore it is usually inappropriate for the SENCO to have other school-wide responsibilities. Many schools find it effective for the SENCO to be a member of the senior leadership team. However although in very small schools the head or deputy may need to take on the role of SENCO, such a decision should be considered very carefully.

**5:35** It is good practice for the costs of the SENCO (or those parts of the post holder's work devoted to SENCO duties) to be set against the core or base budget of the school rather than against additional funds delegated to the school for the purpose of meeting the particular needs of children with SEN.

**5:36** Head teachers and governors should support the SENCO in the use of Information and Communications Technology (ICT) for SEN management systems and for preparing and recording IEPs. Head teachers should also ensure where possible that the SENCO is able to communicate with other SENCOs through, for example, the SENCO Forum coordinated by the British Educational and Technology Communications Agency (BECTa).<sup>28</sup>

## Monitoring children's progress

**5:37** The way in which a school meets the needs of **all** children has a direct bearing on the nature of the additional help required by children with special educational needs, and on the point at which additional help is required. The key to meeting the needs of all children lies in the teacher's knowledge of each child's skills and abilities and the teacher's ability to match this knowledge to finding ways of providing appropriate access to the curriculum for every child.

**5:38** It is for individual schools to decide the procedures they should adopt for meeting the needs of all children, for observing and assessing their progress, and for deciding the nature of the special educational provision that they should make. It is essential that these procedures are carefully managed and monitored, and that there are effective internal communication and liaison arrangements between staff.

**5:39** A school's system for observing and assessing the progress of individual children should provide information about areas where a child is not progressing satisfactorily even though the teaching style has been differentiated. These observations should be enhanced by knowledge built up over time of an individual child's strengths and weaknesses. Using this evidence, class teachers may come to feel that the strategies they are currently using with the child are not resulting in the child learning as effectively as possible. Under these circumstances, they will need to consult the SENCO to consider what else might be done. The starting point will always be a review of the strategies currently being used and the way in which these might be developed. The review may lead to the conclusion that the pupil requires help over and above that which is normally available within the particular class or subject. Consideration should then be given to helping the pupil through *School Action*.

28 The SENCO Forum can be found at [www.becta.org.uk/senco/sources/senfor](http://www.becta.org.uk/senco/sources/senfor); a Welsh language forum is accessible at: <http://www.becta.org.uk/inclusion/discussion/fforwmaaa.html>

**The school has a duty to inform the child's parents that special educational provision is being made for the child because the child has SEN.**

**See Section 317A , Education Act 1996**

**5:40** As most schools are in day-to-day contact with parents they are best placed to judge how to tell parents that because their child has SEN they are receiving special educational provision. It should be done in a way that they encourages parents to contribute their knowledge and understanding of their child, and to raise any concerns they may have about their child's needs and the provision which is being made for them. Although it is the responsibility of the governing body to ensure that parents are informed, in practice it should usually delegated to the head teacher who will decide how to involve other members of staff in informing parents.

**5:41** The key test of the need for action is evidence that current rates of progress are inadequate. There should not be an assumption that all children will progress at the same rate. A judgement has to be made in each case as to what it is reasonable to expect a particular child to achieve. Where progress is not adequate, it will be necessary to take some additional or different action to enable the pupil to learn more effectively. Whatever the level of pupils' difficulties, the key test of how far their learning needs are being met is whether they are making adequate progress.

**5:42** Adequate progress can be defined in a number of ways. It might, for instance, be progress which:

- closes the attainment gap between the child and their peers
- prevents the attainment gap growing wider
- is similar to that of peers starting from the same attainment base-line, but less than that of the majority of peers
- matches or betters the child's previous rate of progress
- ensures access to the full curriculum
- demonstrates an improvement in self-help, social or personal skills
- demonstrates improvements in the child's behaviour.

## **School Action**

**5:43** When a class teacher or the SENCO identifies a child with SEN the class teacher should provide interventions that are additional to or different from those provided as part of the school's usual differentiated curriculum offer and strategies (*School Action*).

**5:44** The basis for intervention through *School Action* could be the teacher's or others' concern, underpinned by evidence, about a child who despite receiving differentiated learning opportunities:

- makes little or no progress even when teaching approaches are targeted particularly in a child's identified area of weakness

- shows signs of difficulty in developing literacy or mathematics skills which result in poor attainment in some curriculum areas
- presents persistent emotional or behavioural difficulties which are not ameliorated by the behaviour management techniques usually employed in the school
- has sensory or physical problems, and continues to make little or no progress despite the provision of specialist equipment
- has communication and/or interaction difficulties, and continues to make little or no progress despite the provision of a differentiated curriculum.

**5:45** If a child's class teacher in consultation with parents concludes that a child may need further support to help their progress, the teacher should seek the help of the SENCO. The teacher and the SENCO should consider the teacher's reasons for concern alongside any information about the child already available to the school.

**5:46** To help inform the decision on the nature of the additional help that might be needed by the child through *School Action* the class teacher together with the SENCO should collect all the available information about the child and seek additional information from the parents. In some cases outside professionals from health or social services may already be involved with the child. In such instances it is good practice for these professionals to liaise with the school and keep them informed of their input. Where these professionals have not already been working with the school staff, the SENCO should contact them if the parents agree.

**5:47** The SENCO should take the lead in the further assessment of the child's particular strengths and weaknesses; planning future support for the child in discussion with colleagues; and monitoring and subsequently reviewing the action taken. The child's class teacher should remain responsible for working with the child on a daily basis and for planning and delivering an individualised programme. Parents should always be consulted and kept informed of the action taken to help the child, and of the outcome of this action.

**5:48** The information collected about the child, and details of the extra help given to them, can be incorporated in the child's individual record. The record should also include previous observations on the child made as part of the assessment and recording systems in place for all children.

### **Nature of intervention**

**5:49** The SENCO and the child's class teacher should decide on the Action needed to help the child to progress in the light of their earlier assessment. There is sometimes an expectation that this help will take the form of the deployment of extra staff to enable one-to-one tuition to be given to the child. However, this may not be the most appropriate way of helping the child. A more appropriate approach might be to provide different learning materials or special equipment; to introduce some group or individual support; to devote extra adult time to devising the nature of the planned intervention and to monitoring its effectiveness; or to undertake staff development and training to introduce more

effective strategies. Speedy access to LEA support services for one-off or occasional advice on strategies or equipment or for staff training may make it possible to provide effective intervention without the need for regular or ongoing input from external agencies.

## Individual Education Plans

**5:50** Strategies employed to enable the child to progress should be recorded within an Individual Education Plan (IEP). Further information on managing IEPs and Group Education Plans can be found in the National Assembly for Wales Handbook of Good Practice for Children with SEN. The IEP should include information about:

- the short-term targets set for or by the child
- the teaching strategies to be used
- the provision to be put in place
- when the plan is to be reviewed
- success and/or exit criteria
- outcomes (to be recorded when IEP is reviewed).

**5:51** The IEP should only record that which is additional to or different from the differentiated curriculum plan, which is in place as part of provision for all children. The IEP should be crisply written and focus on three or four individual targets, chosen from those relating to the key areas of communication, literacy, mathematics, and behaviour and social skills that match the child's needs. The IEP should be discussed with the child and the parents.

**5:52** Where a child with identified SEN is at serious risk of disaffection or exclusion the IEP should reflect appropriate strategies to meet their needs<sup>29</sup>. A Pastoral Support Programme should not be used to replace the graduated response to special educational needs.

## Reviewing IEPs

**5:53** IEPs should be reviewed at least twice a year. Ideally they should be reviewed termly, or possibly more frequently for some children. At least one review in the year could coincide with a routine Parents' Evening, although schools should recognise that some parents will prefer a private meeting. Reviews need not be unduly formal, but parents' views on the child's progress should be sought and they should be consulted as part of the review process. Schools should encourage parents to make their views known. Wherever possible, the child should also take part in the review process and be involved in setting the targets. If the child is not involved in the review, their ascertainable views should be considered in any discussion.

## School Action Plus

**5:54** A request for help from external services is likely to follow a decision taken by the SENCO and colleagues, in consultation with parents, at a meeting to

<sup>29</sup> Guidance is set out in National Assembly Circular 3/99 'Pupil Support and Social Inclusion'.

review the child's IEP. Schools should always consult specialists when they take action on behalf of a child through *School Action Plus*. But the involvement of specialists need not be limited to such children. Outside specialists can play an important part in the very early identification of special educational needs and in advising schools on effective provision designed to prevent the development of more significant needs. They can act as consultants and be a source for in-service advice on learning and behaviour management strategies for all teachers.

**5:55** At *School Action Plus* external support services, both those provided by the LEA and by outside agencies, will usually see the child, in school if that is appropriate and practicable, so that they can advise teachers on new IEPs with fresh targets and accompanying strategies, provide more specialist assessments that can inform planning and the measurement of a pupil's progress, give advice on the use of new or specialist strategies or materials, and in some cases provide support for particular activities. The kinds of advice and support available to schools will vary according to local policies.

**5:56** The basis for *School Action Plus* could be that, despite receiving an individualised programme and/or concentrated support under School Action, the child:

- continues to make little or no progress in specific areas over a long period
- continues working at National Curriculum levels substantially below that expected of children of a similar age
- continues to have difficulty in developing literacy and numeracy skills
- has emotional or behavioural difficulties which substantially and regularly interfere with the child's own learning or that of the class group, despite having an individualised behaviour management programme
- has sensory or physical needs, and requires additional specialist equipment or regular advice or visits by a specialist service
- has ongoing communication or interaction difficulties that impede the development of social relationships and cause substantial barriers to learning.

**5:57** Where schools seek the help of external support services, those services will need to see the child's records in order to establish which strategies have already been employed and which targets have been set and achieved. They can then advise on new and appropriate targets for the child's IEP and on accompanying strategies. The targets set may require specialist assessment arrangements to measure the child's progress. If so, outside specialists, for example educational psychologists may be required for this.

**5:58** The SENCO and class teachers, together with the curriculum co-ordinator and external specialists, should consider a range of different teaching approaches and appropriate equipment and teaching materials, including the use of information technology. The external specialist may act in an advisory capacity, or provide additional specialist assessment or be involved in teaching the child

directly. In some instances improved management or alternative arrangements based on advice from health professionals may considerably reduce the child's special educational needs.

**5:59** The resulting new IEP for the child should set out fresh strategies for supporting the child's progress. Although developed with the help of outside specialists, the strategies specified in the IEP should usually be implemented, at least in part and as far as possible, in the normal classroom setting. The delivery of the interventions recorded in the IEP continues to be the responsibility of the class teacher.

**5:60** If the SENCO and the external specialist consider that the information gathered about the child is insufficient, and that more detailed advice must be obtained from other outside professionals, then the consent of the child's parents must be sought.

**5:61** The SENCO should note in the child's records:

- what further advice is being sought
- the support to be provided for the child pending receipt of the advice.

### **School request for a statutory assessment**

**5:62** Where a request for a statutory assessment is made by a school to an LEA, the child will have demonstrated significant cause for concern. The LEA will seek evidence from the school that any strategy or programme implemented for the child in question has been continued for a reasonable period of time without success and that alternatives have been tried, or the reasons why this has not occurred. The LEA will need information about the child's progress over time, and will also need clear documentation in relation to the child's special educational needs and any action taken to deal with those needs, including any resources or special arrangements put in place. In some cases there will be existing reports or written advice from external agencies that should be included in the documentation, however where there is no such evidence LEAs should not require it in order to decide whether an assessment is needed.

**5:63** The evidence that the LEA will need to examine in deciding whether to make a statutory assessment is described in Chapter Seven. The criteria, which LEAs may adopt in deciding whether to issue a statement for a particular child, are set out in Chapter Eight. Regular liaison between the LEA and schools should ensure that there is clarity about the information required by the Authority when an assessment is requested.

**5:64** By the time the head teacher considers asking for statutory assessment of a child's special educational needs, the school should be able to provide written evidence of or information about:

- **the school's action through School Action and School Action Plus**
- **individual education plans for the pupil**
- **records of regular reviews and their outcomes**

- **the pupil's health including the child's medical history where relevant**
- **National Curriculum levels of attainment including those in literacy and mathematics**
- **educational and other assessments, for example from an advisory specialist support teacher or an educational psychologist**
- **views of the parents and of the child**
- **involvement of other professionals**
- **any involvement by the social services or education welfare service.**

**5:65** The description of the child's learning difficulty and progress together with information about the special educational provision made will form the basis on which the LEA can consider whether a statutory assessment is necessary. If the LEA's support services and, in particular, the LEA's educational psychologists have already been involved in assessing the child and reviewing provision, the LEA should be able to decide relatively quickly whether a statutory assessment is necessary. In the meantime - and whilst any subsequent statutory assessment is being made - the child should continue to be supported through *School Action Plus*.

### **School transfer**

**5:66** When children move schools, either at phase transfer or at any other time, primary schools are required to transfer school records for all pupils within 15 school days of the child ceasing to be registered at the school.<sup>30</sup> However when transfer arrangements are made in advance it is good practice for information to be provided in time for appropriate planning by the receiving school. Secondary schools or a new primary school should receive the school records of all pupils identified by their primary schools as having special educational needs. When such a pupil is admitted to a new school, the school should be in possession of a good deal of useful information about the child, including any detailed background information collated by the primary school SENCO; copies of IEPs prepared in support of intervention through *School Action* or *School Action Plus*; and any statement of special educational needs.

### **Working with children with statements of special educational needs**

**5:67** All children with statements of special educational needs, whether in mainstream or special schools, should have short-term targets set. In the majority of cases the strategies to meet these targets will be set out in an IEP. As at *School Action* and *School Action Plus* the IEP should record only that which is additional to or different from the differentiated curriculum plan.

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<sup>30</sup> The Education (Pupil Records) (Wales) Regulations 2001

## Annual review

**5:68** The procedures to be followed during annual reviews of statements are explained in Chapter Nine. There are however particular points in a child's school career when the arrangements for annual reviews might need to be varied.

**5:69** All concerned with the child should give careful thought to transfer between phases. Advance planning is essential. The move should initially be considered at the review meeting prior to the last year in the current school. Thus consideration of transfer from primary to secondary education would need initial consideration at the review in year 5.

**5:70** At the review in year 5 it should be possible, in most cases, to give clear recommendations as to the type of provision the child will require at the secondary stage. It will then be possible for the parents to visit secondary schools and to consider appropriate options within the same or similar timescales as other parents.

**5:71** In a very few cases the options may not be clear at the year 5 review, in which case it may be necessary to hold an interim or early annual review in the autumn of year 6. Very rarely a child's needs may change after the year 5 review to such a great extent that the recommendations as to the type of provision will need amendment. This should take place through an interim or year 6 review.

**5:72** Thus for all children transferring between phases, except from early years settings, a provisional recommendation should be made in the year previous to transfer so that parents can consider options at the same time as other parents. The child's statement **must** then be amended by 15 February of the year of transfer in the light of the recommendations of the annual review, the parents' views and preferences and the response to consultation by the LEA with the school or schools concerned. There will be no need to require the annual review for such children to be brought forward since the information from the previous review can be used. All the arrangements for a child's placement should therefore be completed no later than the beginning of March before transfer. It is important for placements to be finalised as early as possible in order for any advance arrangements relating to that placement to be made and to ensure that parents and children feel confident and secure about the arrangements in question.

**5:73** The SENCO of the receiving school should be invited to attend the final annual review in primary school of pupils with statements for whom the particular school has been named. It will then be possible for the receiving school to plan a differentiated curriculum response and an appropriate IEP to start at the beginning of the new school year. It will also enable the pupil and the parents to be reassured that an effective and supportive transfer will occur.

## 6 Identification, Assessment and Provision in the Secondary Sector

### Introduction

**6:1** All mainstream secondary schools will admit pupils who have already been identified as having special educational needs. Some of the pupils will have been identified by their primary school and helped through *School Action* or *School Action Plus*, whilst a few may have statements. Secondary schools will need to be aware that any pupil admitted to year 7 may have unidentified special educational needs. They should also recognise that children's special educational needs are on a continuum and may also change over time; and that the period of transfer and adjustment to a new school, which is crucial to all pupils, may hold a particular challenge for a pupil with special educational needs.

**6:2** Provision for pupils with special educational needs is a matter for the school as a whole. In addition to the governing body, the school's head teacher, SENCO and learning support team, and all other members of staff have important operational responsibilities. *All teachers are teachers of pupils with special educational needs.* Teaching such pupils is therefore a whole-school responsibility, requiring a whole-school response. In practice the way in which this responsibility is exercised by individual staff is a matter for schools, to be decided in the light of a school's circumstances and size, priorities and ethos.

**6:3** Central to the work of every class and every subject is a continuous cycle of planning, teaching, assessment and evaluation that takes account of the wide range of abilities, aptitudes and interests of the pupils. The majority of pupils will learn and progress within these arrangements.

**6:4** Each school is required to plan a curriculum that includes provision for those National Curriculum subjects that are statutory at key stages 3 and 4. Teachers should deliver the National Curriculum programmes of study *in ways that meet the particular learning requirements of their pupils.*<sup>31</sup> Some variations in the requirements at key stage 4 are permitted through the use of the regulations under Section 363 of the Education Act 1996 which permit disapplications of National Curriculum subjects for specific purposes.<sup>32</sup>

**6:5** Assessment against the National Curriculum level descriptions for each subject will enable the school to consider the individual pupil's attainment and progress against the expected levels for the majority of their peers. Pupils whose overall attainments or attainment in specific subjects fall significantly outside the expected range may have special educational needs.

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<sup>31</sup> National Curriculum (Wales) Orders 2000 incorporates an access statement which provides flexibility to enable teachers to select content from earlier or later key stage programmes of study if this is appropriate to the needs of individual pupils.

<sup>32</sup> Curriculum 2000: KS4 - A guide for Senior Managers in Schools in Wales, ACCAC, 2000.

## Provision in secondary schools<sup>33</sup>

**6:6** All secondary schools will wish to assess **all** pupils' current levels of attainment on entry in order to ensure that they build upon the pattern of learning and experience already established during the child's primary years. Secondary schools should be aware that primary schools are required to transfer to them the school records for all pupils within 15 school days of pupils ceasing to be registered at the school. Secondary schools should therefore receive the school records of all pupils in year 7 identified by their primary schools as having special educational needs. They should also receive copies of the statements of pupils transferring to them.

**6:7** When such a pupil is admitted to secondary school, the school should be in possession of a good deal of useful information about the child, including detailed background information collated by the primary school SENCO; copies of IEPs prepared in support of intervention through *School Action* or *School Action Plus*; and any statement of special educational needs. This information can help to shape curriculum and pastoral planning for the pupil in the first few months at secondary school. Many mainstream secondary schools supplement the information received from primary schools by carrying out their own assessments of new entrants.

**6:8** Schools should make full use of information passed to them by primary schools. It is good practice for secondary schools to liaise closely with their feeder primary schools and to arrange induction days for transferring pupils in the summer term. This helps to achieve a smooth and successful transition for all pupils. Secondary SENCOs should be invited to attend year 6 annual reviews of pupils with statements to ensure a smooth transition and appropriate planning of the pupil's curriculum and the first IEP in year 7.

**6:9** If a pupil is known to have special educational needs when they arrive at the school, the head teacher, SENCO, departmental and pastoral colleagues should:

- **ensure that the child's learning styles are taken into account**
- **use information from the pupil's primary school to provide starting points for the development of an appropriate curriculum for the pupil**
- **identify and focus attention on the pupil's skills and highlight areas for early action to support the pupil within the class**
- **ensure that ongoing observation and assessment provide regular feedback to all teachers and parents about the pupil's achievements and experiences, and that the outcomes of such assessment form the basis for planning the next steps of the pupil's learning**

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<sup>33</sup> The term "secondary school" refers to any maintained secondary school that is community, foundation or voluntary. This chapter also applies to high schools and those community, foundation or voluntary school. It also includes maintained middle schools, and those community and foundation special schools (other than hospital special schools) with pupils of the relevant age secondary age.

- **ensure that appropriate informal opportunities for the pupil to show what they know, understand and can do are maximised through the pastoral programme**
- **involve the pupil in planning and agreeing targets to meet his or her needs**
- **involve parents in developing and implementing a joint learning approach at home and in school.**

## **Early Identification**

**6:10** The continued importance at secondary level of early identification and assessment for any pupil who may have special educational needs cannot be over-emphasised. The earlier action is taken, the quicker appropriate help can be provided without unduly disrupting the organisation of the school, and the more responsive the pupil is likely to be. Schools frequently make use of appropriate screening or assessment tools to assist them in early identification. Whatever systems are in place, however, assessment should not be regarded as a single event but as a continuing process.

**6:11** If the pupil's difficulties prove to be temporary their rate of progress may be temporarily different although the pupil will be able to learn and progress alongside their peers. If the difficulties are less responsive to the intervention provided by the school, then an early start can be made in considering the kinds of additional help that might be required.

**6:12** To help identify pupils who may have special educational needs, schools can measure children's progress by referring to:

- evidence from teacher observation and assessment
- their performance against the level descriptions within the National Curriculum at the end of a key stage
- standardised screening or assessment tools.

**6:13** Schools should also be open and responsive to the expressions of concern by parents, and take account of any information that parents provide about their child. Schools should ensure that parents are aware of the local Parent Partnership service that will be able to offer parents advice and support. Some young people may also raise concerns about their own progress and their views should be treated seriously. In addition, other professionals may become aware of issues as they work with young people to address problems particularly associated with the teenage years.

## **English or Welsh as an additional language**

**6:14** The identification and assessment of the special educational needs of young people whose first language is not English or Welsh requires particular care. It is necessary to consider the young person within the context of his or her home, culture and community. Where there is uncertainty about an individual, schools should make full use of any local sources of advice relevant to the ethnic group concerned, drawing on community liaison arrangements wherever they exist.

**6:15** Lack of competence in either English or Welsh must not be equated with learning difficulties as understood in this Code. At the same time, when pupils who have English or Welsh as an additional language make slow progress, it should not be assumed that their language status is the only reason; they may have learning difficulties. Schools should look carefully at all aspects of a pupil's performance in different subjects to establish whether the problems they have in the classroom are due to limitations in their command of the language that is used there or arise from special educational needs.

**6:16** At an early stage a full assessment should be made of the exposure they have had in the past to each of the languages they speak, the use they make of them currently and their proficiency in them. The information about their language skills obtained in this way will form the basis of all further work with them both in assisting their learning difficulties and in planning any additional language support that is needed. Where such information is available from a primary school in the case of children known to be at risk, every effort should be made to obtain it at the point of transfer.

## **National Curriculum**

**6:17** The National Curriculum is a statutory requirement for all pupils<sup>34</sup> in maintained schools that sets out the areas and content of learning in each key stage, securing access to essential areas of learning and providing for the development of the knowledge, understanding and skills necessary for self-development and for becoming active and responsible citizens.

**6:18** Effective management, school ethos and the learning environment, curricular, disciplinary and pastoral arrangements can help prevent some special educational needs arising, and minimise others. Differentiation of learning activities in subjects within the secondary curriculum framework will help schools to meet the learning needs of all pupils. Schools should not assume that pupils' learning difficulties always result solely, or even mainly, from problems within the young person. Pupils' rates of progress can sometimes depend on what or how they are taught. A school's own practices make a difference - for good or ill. The governing body, head teacher, SENCO, heads of department, and pastoral staff should be alert to any particular patterns in the school's identification of special educational needs or parents' expressions of concern. Schools may need to reconsider policies and practice in the light of the pattern and incidence of the special educational needs that are identified.

**6:19** Teachers should use the National Curriculum programmes of study to teach knowledge, understanding and skills using a variety of methods that are appropriate to the abilities of individual pupils. For some pupils it will be necessary to choose work from earlier key stages so they are able to progress and demonstrate attainment.

**6:20** The National Curriculum Access Statement emphasises the importance of providing access to the full National Curriculum and using the flexibility available to ensure that learning opportunities are appropriate to the needs of individual pupils. The common requirements also provide a framework to help teachers use

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<sup>34</sup> National Curriculum (Wales) (Orders) 2000 incorporates an access statement which provides flexibility to enable teachers to select content from earlier or later key stage programmes of study if this is appropriate to the needs of individual pupils

National Curriculum subjects as contexts to meet pupils' more complex needs.

**6:21** All secondary schools should consider the options available within the school's organisation to enable all pupils to access the National Curriculum. Differentiation can be addressed by considering the nature and variety of activities and the intellectual demands placed on the individual pupil. Subject teacher planning should be flexible so as to recognise the needs of all pupils as individuals and to ensure progression, relevance and differentiation. Many schools choose to aid curriculum planning and differentiation through the judicious use of setting and streaming of pupils. It should be noted that an individual pupil may progress at different rates in different subject areas and thus consideration of placement in a set should be made subject by subject. Where setting and streaming occur, either the curriculum content or the speed of lesson presentation should still vary to reflect the needs of the particular class group.

### **Graduated response**

**6:22** In order to help pupils who have special educational needs, schools in the secondary sector should adopt a graduated response that includes a wide range of strategies. This approach will be very similar to that employed in primary schools. Although this response acknowledges that there is a continuum of special educational needs, it also requires that schools should make full use of available classroom and school resources before, where necessary, bringing increasing specialist expertise to bear on the difficulties that a pupil may be experiencing.

**6:23** This Code sets out a model of action and intervention designed to help pupils towards independent learning; in particular the procedures schools might adopt in order to fulfil their duty to use their best endeavours on behalf of pupils with special educational needs. In many cases the action taken will mean that the pupil's needs are resolved. Only for those pupils whose progress continues to cause concern should additional action be taken. For pupils in the secondary phase this Code recommends that, when a young person is identified as having special educational needs the school should intervene as described below at *School Action* and *School Action Plus*. The model recommended is very similar to that advocated for the primary phase, but takes into account the different organisation in secondary education.

**6:24** These interventions will not usually be steps on the way to statutory assessment. Nor are they hurdles to be crossed before a statutory assessment can be made. Some pupils may gradually require less rather than more additional help if the interventions are a success. Such interventions are an appropriate means of helping schools and parents match special educational provision to individual pupil needs, and are therefore part of the continuous and systematic cycle of planning, action, review and evaluation within the school to enable all pupils to learn and progress.

**6:25** Good practice can take many different forms. Even those schools that decide to follow the Code's model closely may need to make adjustments to reflect their particular circumstances. The model applies to maintained secondary schools other than special schools but might be adopted differently in, for

example, a selective or partly selective school and a large inner-city comprehensive school. The model embodies the principles set out below, which are central to this Code and to which all schools should have regard:

- **provision for a pupil with special educational needs should match the nature of his or her needs**
- **there should be regular recording of a pupil's special educational needs, the action taken and the outcomes.**

## **Record keeping**

**6:26** Schools should record the steps taken to meet the needs of individual children. The school's SENCO should have responsibility for ensuring that the records are properly kept and available as needed. If schools refer a pupil for a statutory assessment, they should make available to the LEA a record of their work with the pupil, including the resources or special arrangements already available to the pupil. LEAs and schools may wish to consider the use of an agreed style for IEPs at School Action and School Action Plus. This may be particularly helpful in ensuring that consistent information effectively transfers between schools. The Education (School Records) Regulations 2000 require schools to provide full pupil records to the receiving school even if the new school does not lodge a request. Such records should include all the information held by the SENCO including IEPs.

**6:27** In addition to the information that all schools will record for all pupils, the pupil record or profile for a child with SEN should include information about the pupil's progress and behaviour from the school itself, from the pupil's primary school or any other previous school, from the parents, and from health and social services and other relevant agencies. It should also include the pupil's own perception of any difficulties and how they might be addressed. It may also be necessary to record in the profile information about the child's needs in relation to the general strategies to be used to enable access to the curriculum and the school day.

**6:28** The information collected should reveal the different perceptions of those concerned with the child, any immediate educational concerns and an overall picture of the child's strengths and weaknesses.

## **Working with other providers of support**

**6:29** Many children and young people with special educational needs have a range of difficulties and the achievement of educational objectives is likely to be delayed without partnership in the pupil's education between all concerned. Thus support for pupils with special educational needs requires a concerted approach from health professionals, social services departments (SSD), specialist LEA support services and other providers of support services including Careers Wales. All these services should aim to provide an integrated service for the child so that parents and pupils perceive the provision as 'seamless'. The network of practitioners should ensure that all the services working with the child are kept fully informed about the action taken in support of the pupil. The Children Act 1989 and the Education Act 1996 place duties on schools, LEAs, the health

services and the social services departments of local authorities to help each other. Further guidance on other agencies is set out in Chapter Ten.

### **Involvement of social services**<sup>35</sup>

**6:30** Schools should be aware of the full range of local services provided by social services departments (SSDs). SSDs have duties under section 17 of the Children Act 1989 to provide a range of services for children regarded as being 'in need' (see Glossary). While a child with special educational needs will not necessarily be 'in need' as defined in the Children Act 1989, that Act allows an integrated approach to the educational, health and welfare needs of children with special educational needs who are 'in need'. It also requires LEAs and others to assist social services departments if a child is suffering or at risk of suffering significant harm (section 27 of the Children Act 1989).

**6:31** The designated teacher for 'looked after' children should work closely with the SENCO when the child also has SEN. Schools should also ensure that where a child is 'looked after'<sup>36</sup> by the local authority both the child's social worker, and where possible, the parents are involved in their child's education and all processes relating to special educational needs.

### **The role of the SENCO in mainstream secondary schools**<sup>37</sup>

**6:32** The SEN Coordinator (SENCO), in collaboration with the head teacher and governing body, plays a key role in helping to determine the strategic development of the SEN policy and provision in the school to raise the achievement of pupils with SEN. The SENCO takes day-to-day responsibility for the operation of the SEN policy and co-ordination of the provision made for individual pupils with SEN, working closely with staff, parents, Careers Wales and other agencies. The SENCO also provides related professional guidance to colleagues with the aim of securing high quality teaching for pupils with SEN.

**6:33** The SENCO, with the support of the head teacher and colleagues, seeks to develop effective ways of overcoming barriers to learning and sustaining effective teaching through the analysis and assessment of pupils' needs, by monitoring the quality of teaching and standards of pupils' achievements, and by setting targets for improvement.

**6:34** The SENCO should collaborate with Heads of Department or Faculties, and pastoral colleagues to ensure that learning for all pupils is given equal priority, and that available resources are used to maximum effect.

**6:35** In mainstream secondary schools the key responsibilities of the SENCO may include:

- **overseeing the day-to-day operation of the school's SEN policy**
- **liaising with and advising fellow teachers**
- **managing the SEN team of teachers and learning support assistants**

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35 National Assembly publication 'Framework for Assessment of Children in Need.' 2001

36 National Assembly guidance on 'The Education of Children Looked After by Local Authorities'

37 TTA 'National Standards for Special Educational Coordinators' provides guidance on training and development for SENCOs.

- **coordinating provision for pupils with special educational needs**
- **overseeing the records on all pupils with special educational needs**
- **liaising with parents of pupils with special educational needs**
- **contributing to the in-service training of staff**
- **liaising with external agencies including the LEA's support and educational psychology services, Careers Wales, health and social services and voluntary bodies.**

### **Time required for SEN Coordination**

**6:36** Governing bodies and head teachers will need to give careful thought to the SENCO's timetable in the light of the Code and in the context of the resources available to the school. Experience shows that SENCOs require time for: planning and coordination away from the classroom; maintaining appropriate records including a record of children at *School Action* and *School Action Plus* and those with statements; teaching pupils with SEN; observing pupils in class without a teaching commitment; managing the effective deployment of other teachers within the SEN team; managing, supporting and training Learning Support Assistants; liaising with departmental and pastoral colleagues; liaising with feeder primary schools and working with Careers Wales in relation to transition planning. Access to a telephone and an interview room is also desirable where possible. In many schools the governing body has been able to allocate some administrative staff time to help the SENCO, thus releasing the SENCO to use their expertise more effectively.

**6:37** In most secondary schools the SENCO role will be a specific responsibility for one member of staff. The role is time consuming and therefore it is usually inappropriate for the SENCO to have other school-wide responsibilities. In terms of the level of responsibility and the time required for the task, the SENCO's role is broadly equivalent to that of Head of Department or Faculty or Head of Year. Many schools find it effective for the SENCO to be a member of the senior management team.

**6:38** It is good practice for the costs of the SENCO (or those parts of the post holder's work devoted to SENCO duties) to be set against the core or base budget of the school rather than against additional funds delegated to the school for the purpose of meeting the particular needs of children with SEN.

**6:39** Head teachers and governors should support the SENCO in the use of Information and Communications Technology (ICT) for SEN management systems and for preparing and recording IEPs. Head teachers should also ensure where possible that the SENCO is able to communicate with other SENCOs through, for example, the SENCO Forum coordinated by the British Educational and Technology Communications Agency.<sup>38</sup> The management structures within a school should ensure that all the SENCO's functions can be carried out effectively.

**6:40** There is a range of organisational structures in place in mainstream secondary schools, which aids the effective implementation of the SEN policy. As

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38 The SENCO Forum can be found at [www.becta.org.uk/senco/sources/senfor](http://www.becta.org.uk/senco/sources/senfor); a Welsh language forum is accessible at: <http://www.becta.org.uk/inclusion/discussion/fforwmaa.html>

secondary schools are often very large, many schools have staff, additional to the SENCO, with SEN responsibilities. Whatever organisation is in place, all staff must know and understand their role, and management should ensure that it is an integral part of the job descriptions of the relevant personnel.

## **Monitoring pupil progress**

**6:41** The ways in which a secondary school meets the individual needs of **all** pupils has a direct bearing on the nature and frequency of the additional help required by pupils with special educational needs. The key to meeting the needs of all pupils lies in the teacher's knowledge of each pupil's skills and abilities and the teacher's ability to match this knowledge to identifying and providing appropriate ways of accessing the curriculum for every pupil.

**6:42** All schools will through their cycle of observation, assessment, planning and review make provision for increasing curriculum differentiation. They may decide that for some key stage 4 pupils more flexible arrangements would be appropriate.<sup>39</sup>

**6:43** A variety of approaches should be employed to maximise the achievement of all pupils. The effective school will identify common strategies and responses across the secondary curriculum for all pupils designed to raise pupils' learning outcomes, expectations and experiences. The kinds of curriculum response available for **all** pupils will directly affect the need to intervene at an individual level.

**6:44** All pupils should know what is expected of them. For example, secondary schools' general marking policies should therefore be consistent across all subjects. Schools should be similarly consistent in other areas, making clear, for example, how they expect all pupils to behave and to present their work. The emphasis on literacy across the curriculum will help to achieve consistency in handwriting, spelling, punctuation and presentation. Thus for all subject areas and for all pupils including those with SEN, there will be a common set of expectations across the school which are known to everyone, and a further commitment to support those pupils who have difficulty meeting those expectations.

**6:45** It is for individual schools to decide the procedures they should adopt for meeting the needs of all children, for observing and assessing their progress, and for deciding the nature of the special educational provision that they should make. It is essential that these procedures are carefully managed and monitored, and that there are effective internal communication and liaison arrangements between staff.

**6:46** School and departmental systems for observing and assessing the progress of individual pupils should provide information about areas where a pupil is not progressing even when the teaching style has been differentiated. These observations should be enhanced by knowledge built up over time of an individual pupil's strengths and weaknesses. Using this evidence, subject teachers may conclude that the strategies they are currently using with the pupil are not resulting in the pupil learning as effectively as possible. In these circumstances, they will need to consult the SENCO to consider what else might be done. The

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<sup>39</sup> National Curriculum (Wales) (Orders) 2000 incorporates an access statement which provides flexibility to enable teachers to select content from earlier or later key stage programmes of study if this is appropriate to the needs of individual pupils

starting point will always be a review of the strategies being used and the way in which these might be developed. Evaluation of the strategies in place may lead to the conclusion that the pupil requires help over and above that which is normally available within the particular class or subject. Consideration should then be given to helping the pupil through *School Action*.

**The school has a duty to inform the child's parents that special educational provision is being made for the child because the child has SEN.**

**See Section 317A, Education Act 1996**

**6:47** As schools are in regular contact with parents they are best placed to judge how to tell parents that because their child has SEN they are receiving special educational provision. It should be done in a way that encourages parents to contribute their knowledge and understanding of their child, and to raise any concerns they may have about their child's needs and the provision that is being made for them. Although it is the responsibility of the governing body to inform parents, they should usually delegate this to the head teacher who will decide the most appropriate way to inform parents and the extent to which other staff should be involved.

**6:48** The key test of the need for action is evidence that current rates of progress are inadequate. There should not be an assumption that all pupils will progress at the same rate. A judgement has to be made in each case as to what it is reasonable to expect that a particular pupil will achieve. Where progress is not adequate, it will be necessary to take some additional or different action to enable the pupil to learn more effectively. Whatever the level of pupils' difficulties, the key test of how far their learning needs are being met is whether they are making adequate progress.

**6:49** Adequate progress can be defined in a number of ways. It might, for instance, be progress which:

- closes the attainment gap between the pupil and the pupil's peers
- prevents the attainment gap growing wider
- is similar to that of peers starting from the same attainment base-line, but less than that of the majority of peers
- matches or betters the pupil's previous rate of progress
- ensures access to the full curriculum
- demonstrates an improvement in self-help, social or personal skills
- demonstrates improvements in the pupil's behaviour
- is likely to lead to appropriate accreditation
- is likely to lead to participation in further education, training and/or employment.

## School Action

**6:50** When a subject teacher, member of the pastoral team or the SENCO identifies a child with SEN they should provide interventions that are additional to or different from those provided as part of the school's usual differentiated curriculum offer and strategies (School Action).

**6.51** The basis for intervention through School Action could be the teacher's or others' concern, underpinned by evidence, about a child or young person who, despite receiving differentiated learning opportunities:

- makes little or no progress even when teaching approaches are targeted particularly in a pupil's identified area of weakness
- shows signs of difficulty in developing literacy or numeracy skills that result in poor attainment in some curriculum areas
- presents persistent emotional and/or behavioural difficulties, which are not ameliorated by the behaviour management techniques usually employed in the school
- has sensory or physical problems, and continues to make little or no progress despite the provision of specialist equipment
- has communication and/or interaction difficulties, and continues to make little or no progress despite the provision of a differentiated curriculum.

**6:52** If staff conclude, after consulting with parents, that a pupil may need further support to help them progress, they should seek the help of the Head of Department or SENCO and consider their reasons for concern alongside any information about the child already available to the school.

**6:53** The school SENCO should facilitate the further assessment of the pupil's particular strengths and weaknesses; planning future support for the pupil in discussion with colleagues; and monitoring and subsequently reviewing the action taken. The pupil's subject and pastoral teachers should remain responsible for working with the pupil on a daily basis and for planning and delivering an individualised programme.

**6:54** An important part of School Action is the collection of all known information about the pupil and seeking additional new information from the parents and others. The school SENCO should facilitate this process through the pastoral system as appropriate. In some cases outside professionals from health or social services may already be involved with the child. In such instances it is good practice for these professionals to liaise with the school and keep them informed of their input. If these professionals have not already been working with the staff, the SENCO should contact them. This information will act as a baseline on which to plan an appropriate intervention.

**6:55** Coordinating the planning of the pupil's IEP, especially setting appropriate targets, should be the responsibility of the school or link SENCO. On the other hand devising strategies and identifying appropriate methods of access to the curriculum should lie within the area of expertise and responsibility of individual

subject teachers. All staff should therefore be involved in providing further help to pupils through School Action. For this reason the arrangements for devising and recording Individual Education Plans should be planned and agreed with all the staff, and endorsed by senior management.

**6:56** Parents should always be consulted and kept fully informed of the action taken to help the pupil, and of the outcome of this action. Indeed parents may often be the prime source of further information about their child. The information collected can be maintained as part of the pupil's individual record that will also include previous observations on the child made as part of the assessment and recording systems in place for all pupils.

### **Nature of intervention**

**6:57** The SENCO and the pupil's subject teachers should decide on the *Action* needed to help the pupil to progress in the light of their earlier assessment. There is sometimes an expectation that this help will take the form of the deployment of extra staff to enable one-to-one tuition to be given to the pupil. However, this may not be the most appropriate way of helping the pupil. A more appropriate approach might be to provide different learning materials or special equipment, to introduce some group or individual support, to devote extra adult time to devising the nature of the planned intervention and to monitoring its effectiveness or to undertake staff development and training aimed at introducing more effective strategies. Speedy access to LEA support services for one-off or occasional advice on strategies or equipment or for staff training may make it possible to provide effective intervention without the need for regular or ongoing input from external agencies.

### **Individual Education Plans**

**6:58** Strategies employed to enable the pupil to progress should be recorded within an Individual Education Plan (IEP). Information on managing IEPs and Group Education Plans can be found in the National Assembly SEN Handbook on Good Practice for Children with SEN . The IEP should include information about:

- the short-term targets set for or by the pupil
- the teaching strategies to be used
- the provision to be put in place
- when the plan is to be reviewed
- success and/or exit criteria
- outcomes (to be recorded when IEP is reviewed)

**6:59** The IEP should only record that which is additional to or different from the differentiated curriculum provision, which is in place as part of provision for all pupils. The IEP should be crisply written and may focus on three or four individual targets, chosen from those relating to the key areas of communication, literacy, mathematics, and behaviour and social skills to match the pupil's needs. Strategies may be cross curricular or may sometimes be subject specific. The IEP should be discussed with the pupil and the parents.

**6:60** Where a pupil with identified SEN is at serious risk of disaffection or exclusion the IEP should reflect appropriate strategies to meet their needs.<sup>40</sup> A Pastoral Support Programme should not be used to replace the graduated response to special educational needs.

## Reviewing IEPs

**6:61** The IEP should be reviewed at least twice a year. Ideally it should be reviewed termly, or possibly more frequently for some pupils. At least one review a year could coincide with a routine Parents' Evening, although schools should recognise that some parents might prefer a more private meeting. Reviews need not be unduly formal, but parents' views on their child's progress should be sought and they should be consulted as part of the review process. The pupil should also take part in the review process and be involved in setting the targets. If the pupil is not involved in the review meeting, their ascertainable views should be considered in any discussion. Further guidance on reviewing IEPs is to be found in the National Assembly Handbook of Good Practice for Children with SEN.

## School Action Plus

**6:62** A request for help from external services is likely to follow a decision taken by the SENCO and colleagues, in consultation with parents, at a meeting to review the child's IEP. Schools should always consult specialists when they take action on behalf of a pupil through School Action Plus. But the involvement of specialists need not be limited to such pupils. Outside specialists can play an important part in the very early identification of special educational needs and in advising schools on effective provision designed to prevent the development of more significant needs. They can act as consultants and be a source for in-service advice on learning and behaviour management strategies for all teachers.

**6:63** At School Action Plus external support services, both those provided by the LEA and by outside agencies, will usually see the child, in school if that is appropriate and practicable, so that they can advise subject and pastoral staff on new IEPs with fresh targets and accompanying strategies, provide more specialist assessments that can inform planning and the measurement of a pupil's progress, give advice on the use of new or specialist strategies or materials, and in some cases provide support for particular activities. The kinds of advice and support available to schools will vary according to local policies.

**6:64** The triggers for School Action Plus could be that, despite receiving an individualised programme and/or concentrated support, the pupil:

- continues to make little or no progress in specific areas over a long period
- continues working at National Curriculum levels substantially below that expected of pupils of a similar age
- continues to have difficulty in developing literacy and numeracy skills
- has emotional or behavioural difficulties which substantially and regularly interfere with their own learning or that of the class group, despite having an individualised behaviour management programme

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<sup>40</sup> National Assembly Circular 3/99 'Pupil Support and Social Inclusion'

- has sensory or physical needs, and requires additional specialist equipment or regular advice or visits, providing direct intervention to the pupil or advice to the staff, by a specialist service
- has ongoing communication or interaction difficulties that impede the development of social relationships and cause substantial barriers to learning.

**6:65** Where schools seek the help of external support services, those services will need to see the pupil's records in order to establish which strategies have already been employed and which targets have been set and achieved. They can then advise on new and appropriate targets for the pupil's IEP and on accompanying strategies. They may also provide additional specialist assessment that can inform planning and the measurement of a pupil's progress.

**6:66** The SENCO and subject specialists, together with the external specialists, should consider a range of different teaching approaches and appropriate equipment and teaching materials, including the use of information technology. The external specialist may act in an advisory capacity, provide additional specialist assessment or be involved in teaching the pupil directly. In some instances better management or alternative arrangements in school, based on advice from health professionals, may considerably reduce the pupil's special educational needs.

**6:67** The resulting IEP for the pupil will set out new strategies for supporting the pupil's progress. Although developed with the help of outside specialists, the strategies specified in the IEP should usually be implemented, at least in part and as far as possible, in the normal classroom setting. Hence delivery of the IEP will be the responsibility of subject teachers.

**6:68** If the SENCO and the external specialist consider that the information gathered about the pupil is insufficient, and that more detailed advice must be obtained from other outside professionals, then the consent of the pupil's parents must be sought.

**6:69** The SENCO should note in the pupil's records what further advice is being sought and the support to be provided for the pupil pending receipt of the advice.

### **School request for statutory assessment**

**6:70** For a very few pupils the help given by schools through Action Plus may not be sufficient to enable the pupil to make adequate progress. It will then be necessary for the school, in consultation with the parents and any external agencies already involved, to consider whether to ask the LEA to initiate a statutory assessment.

**6:71** Where a request for a statutory assessment is made to an LEA, the pupil will have demonstrated significant cause for concern. The LEA will seek evidence from the school that any action implemented for the pupil has continued for a reasonable period of time without success and that alternatives have been tried. The LEA will need information about the pupil's progress over time, and will also need clear documentation in relation to the child's special educational needs and

any action taken to deal with those needs, including any resources or special arrangements put in place. This information might in some cases include reports or written advice from external agencies. The evidence that the LEA will examine in deciding whether to make a statutory assessment is described in Chapter Seven. The criteria, which LEAs may adopt in deciding whether to issue a statement for a particular child, are set out in Chapter Eight. Regular liaison between the LEA and schools should ensure that there is clarity about the information required by the Authority when an assessment is requested.

**6.72** By the time the head teacher considers requesting a statutory assessment of a pupils' special educational needs, the school should be in a position to provide written evidence of or information about:

- **the school's action through School Action and School Action Plus**
- **individual education plans for the pupil**
- **records of regular reviews and their outcomes**
- **the pupil's health including the pupil's medical history where relevant**
- **National Curriculum levels including those in literacy and numeracy**
- **educational and other assessments, for example from an advisory specialist support teacher or an educational psychologist**
- **views of the parents and of the pupil**
- **involvement of other professionals**
- **any involvement by the social services or education welfare service.**

**6:73** The description of the pupil's learning difficulty and progress together with information about the special educational provision made will form the basis on which the LEA can consider whether a statutory assessment is necessary. If the LEA support services and, in particular, the LEA educational psychologists have already been involved in assessing the pupil and reviewing provision, the LEA should be able to decide relatively quickly whether a statutory assessment is necessary. In the meantime - and whilst any subsequent statutory assessment is being made - the pupil should continue to be supported through *School Action Plus*.

### **Working with children with statements of special educational needs**

**6:74** All pupils with statements of special educational needs, whether they are attending mainstream or special schools should have short-term targets set. In the majority of cases the strategies to meet these targets will be set out in an IEP. As at *School Action* and *School Action Plus* the IEP should only record that which is additional to or different from the normal differentiated curriculum provision.

### **Annual review of a statement of special educational needs**

**6:75** The general procedures to be followed during annual reviews of statements and the particular arrangements for annual reviews held in year 9 and for transition planning are set out in Chapter Nine.

## 7 Statutory Assessment of Special Educational Needs

### Introduction:

**LEAs must identify and make a statutory assessment of those children for whom they are responsible who have special educational needs and who probably need a statement.**

**See Sections 321 and 323, Education Act 1996.**

**7:1** The special educational needs of the great majority of children should be met effectively within mainstream settings through *Early Years Action* and *Early Years Action Plus* or *School Action* and *School Action Plus*, without the local education authority needing to make a statutory assessment. In a very small number of cases the LEA will need to make a statutory assessment of special educational needs and then consider whether or not to issue a statement.

**7:2** Statutory assessment involves:

- consideration by the LEA, working co-operatively with parents, the child's school<sup>41</sup> and, as appropriate, other agencies, as to whether a statutory assessment of the child's special educational needs is necessary

and if so

- conducting the assessment, in close collaboration with parents, schools and other agencies.

**7:3** The principles underpinning the carrying out of an assessment of special educational needs should be broadly similar to those adopted by the National Assembly for assessing children in need.<sup>42</sup>

**7:4** An assessment under section 323 of the Education Act 1996 should **only** be undertaken if the LEA believe that the child probably has special educational needs and that the LEA needs or probably needs to determine the child's special educational provision itself by making a statement.

**7:5** It may be that in considering whether the assessment is necessary the LEA will conclude that intervention at *Early Years Action Plus* or *School Action Plus* is appropriate; or the LEA might be able to identify different ways in which the school could help the child through such intervention. If so, the LEA would conclude that a statutory assessment was not necessary.

**7:6** Statutory assessment itself will not always lead to a statement. The information gathered during an assessment may indicate ways in which the school can meet the child's needs without the need for any special educational provision to be determined by the LEA through a statement. It may be that the provision of a particular piece of equipment would allow the school, guided as appropriate by expert help, to meet the child's needs or that alternative strategies, as advised by LEA support services, would enable the child to make progress.

<sup>41</sup> In this chapter 'schools' refers both to early education settings and all schools (including non-maintained schools)

<sup>42</sup> The National Assembly publication 'Framework for Assessment' provides detailed guidance on the assessment of children in need.

## Routes for referral

**7:7** A child will be brought to the LEA's attention as possibly requiring an assessment through:

- a request for an assessment by the child's school or setting
- a request for an assessment from a parent

or

- a referral by another agency.<sup>43</sup>

**7:8** It is important that all requests and referrals for assessment are considered as quickly as possible regardless of their source.<sup>44</sup>

## Request by the child's school or setting

**7:9** In some cases, schools or settings will conclude, after they have taken action to meet the learning difficulties of a child, that the child's needs remain so substantial that they cannot be met effectively within the resources normally available to the school or setting.

**Schools and relevant nursery education providers have a statutory right to ask the LEA to conduct a statutory assessment or reassessment of a child's educational needs.**

**See Section 329A, Education Act 1996**

**7:10** In this context 'schools' include:

- maintained schools (mainstream and special, other than special schools established in a hospital)
- maintained nursery schools
- pupil referral units
- all independent schools including City Academies, City Technology Colleges and City Colleges for Technology or the Arts
- schools approved under the Education Act 1996, section 342
- all early education settings who are in receipt of financial assistance from their LEA and are providers of relevant nursery education for the purposes of section 118 of the School Standards and Framework Act 1998 - effectively to four and five year olds.<sup>45</sup>

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43 For example, health authorities and social services department can make requests for referral.

44 The Education (Special Educational Needs) (Wales) Regulations 2002 set out specific time limits in relation to requests for assessment.

45 Early years settings in receipt of Partnership funding providing nursery education to a three year old, or a child under three, do not have a statutory right to request an assessment or reassessment but may refer a child. By September 2004 LEAs' duties under section 118 will extend to three year olds. When this happens, the right to request assessments will automatically be extended to cover requests in respect of three year olds.

**7:11** Schools and settings should consult the parents before requesting an assessment. The LEA must comply with such a request, unless it has made a statutory assessment within six months of the date of the request or unless it concludes, upon examining any evidence before it or representations made to it, that a statutory assessment is not necessary. If at this time the head teacher judges that the full National Curriculum is not meeting the pupil's needs then a temporary disapplication may be appropriate.<sup>46</sup>

**7:12** If the LEA refuses to agree to the request, parents have the right of appeal to the SEN Tribunal. LEAs **must** make sure that parents are informed of their rights of appeal and the time limits for lodging an appeal, the availability of parent partnership and disagreement resolution services, and the fact that the parent's right of appeal cannot be affected by any disagreement resolution procedure.

### **Evidence to be provided by the school or early education setting**

**7:13** When making a request for a statutory assessment, the school or setting should state clearly the reasons for the request and submit the following evidence:

- **the views of parents recorded at *Early Years Action* and *Early Years Action Plus* or *School Action* and *School Action Plus***
- **the ascertainable views of the child**
- **copies of IEPs at *Early Years Action* and *Early Years Action Plus* or *School Action* and *School Action Plus***
- **evidence of progress over time**
- **copies of advice, where provided, from health and social services**
- **evidence of the involvement and views of professionals with relevant specialist knowledge and expertise outside the normal competence of the school or setting**
- **evidence of the extent to which the school or setting has followed the advice provided by professionals with relevant specialist knowledge.**

**7:14** For some very young children with complex needs the LEA should accept as evidence one over-arching report from the lead professional involved with the child. This approach might also be appropriate for an older child who through an accident or ill health suddenly acquires easily identifiable complex needs that require the LEA to assess and make provision.

### **Referral by another agency**

**7:15** Health services and social services departments may draw children to the LEA's attention. This is particularly likely with children under five with complex needs who are not yet attending school but who may be in an early education setting. The LEA will then need to collect evidence before considering whether it is necessary to assess the child.

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<sup>46</sup> The Education (National Curriculum) Temporary Exceptions for Individual Pupils (Wales) Regulations 1999.

## Notice that an LEA is considering whether to make a statutory assessment

**7:16** Before deciding whether to make an assessment the LEA must issue a notice under section 323(1) or 329A(3) of the Education Act 1996. The LEA:

- i. **must** inform the parents that the LEA is considering whether to make a statutory assessment
- ii. **must** set out for parents the procedures that will be followed if a statutory assessment is considered necessary and the subsequent procedures for drawing up a statement if it is considered necessary
- iii. should explain the precise timing of each of the various stages of the assessments within the overall six-month time limit, indicate ways in which the parents can assist the LEA in meeting the time limits, and explain the exceptions to the time limits
- iv. **must** tell parents the name of an officer of the LEA from whom further information may be obtained. (This person is often known as the Named LEA Officer)
- v. **must** tell parents of their right to submit written evidence and make oral representations (in both cases in either English or Welsh) as to why they believe their child should or should not be assessed. The LEA **must** set a time limit for receipt of parental views, which must not be less than 29 days
- vi. should encourage parents to respond and submit evidence, pointing out the importance of their contribution. When parents make oral representations, the LEA should agree a written summary with the parents. The LEA may invite parents to indicate formally if they do not wish to make or add to previous representations, in order that the LEA can then immediately start to consider whether a statutory assessment is necessary
- vii. **must** give parents information, in English, Welsh, or bilingually, about the local parent partnership service which should provide information about other sources of independent advice, such as local or national voluntary organisations and any local support group, that may be able to help them consider what they feel about their child's needs
- viii. should ask the parents whether they would like the LEA to consult anyone in addition to those whom the LEA must approach for educational, medical, psychological and social services advice, if the LEA decides to proceed with the statutory assessment
- ix. should tell parents that they may also provide any private advice or opinions, which they have or can obtain, and that this advice will be taken into account.

**7:17** This notice to parents should be written in plain language so that parents can readily understand its meaning. The notice **must** make clear that the LEA has not at this stage decided to go ahead with an assessment, rather is considering whether it should do so. If the notice is not clear about this, some parents will, on reading all the documentation, believe the LEA has already begun to make an

assessment, and may become confused if the LEA later informs them that it has decided not to make an assessment.

**7:18** Statutory assessment will be a new and unknown experience for most parents. It is very important therefore that LEAs try to make the process as accessible as possible for all parents. Advice and suggestions as to support that might be given to parents throughout the statutory assessment process is contained in Chapter Two and in the National Assembly Handbook of Good Practice for Children with SEN.

### **Notification to other agencies of a proposal to assess**

**7:19** The LEA **must** send a copy of the notice to the designated officer of the Social Services department and the health authority. The LEA should explain that they will be asked for advice if the assessment proceeds. They should also copy it to their own educational psychology service and any other relevant agencies, such as the education welfare service, which might be asked for advice if the assessment proceeds.

**7:20** LEAs are not at this point asking these agencies to provide advice, but alerting them to the possibility of a request for advice in the near future. This early information gives the agencies an opportunity to collate records and consult others who might be involved in providing advice. Early action at this stage within the health service and social services departments will in effect serve to extend the time available to those agencies for gathering advice, and thus help them meet the statutory time limits.

### **Request by a parent**

**7:21** Parents may ask the LEA to conduct a statutory assessment under section 328 or 329 of the Education Act 1996. The LEA must comply with such a request, unless they have made a statutory assessment within six months of the date of the request or unless they conclude, upon examining all the evidence provided to them that a statutory assessment is not necessary.

**7:22** When schools, external specialists, including LEA support and educational psychology services, and parents have been working in partnership at *School Action Plus*, the parental request for a statutory assessment will usually have been discussed between them. Therefore the request is likely to be an approach agreed by all the parties involved. The parents may then, with the help of the school, be able to provide the LEA with the evidence listed at paragraph 7:13 above. Sometimes, however, a parental request for a statutory assessment may be a reflection of dissatisfaction with the action taken by the school. Whatever the reason, the LEA should take all parental requests seriously and take appropriate action.

**7:23** Parents may decide to request an assessment if they believe that their child has needs which are either not being met through school-based intervention, or are so substantial that a mainstream school could not meet them effectively from within their own resources. Parents of very young children with complex needs may also request an assessment. It is helpful to the LEA if the parent can set out clearly the reason for the request, and provide information as to the provision the child has already received. In many cases the child's school or professionals

already involved with the child can provide information for the parents to send to the LEA. The LEA should, where necessary, actively seek any additional appropriate evidence from the school.

**7:24** Where a child attends an independent school (see Glossary), a parental request, or indeed a school request, for statutory assessment may be the first time that an LEA hears about that child. The procedure the LEA follows and the factors to consider in deciding whether to make an assessment should be the same as if the child were in a maintained school. The LEA will wish to consider evidence provided by the child's school and parents as to their learning difficulties, including evidence about any action taken by the school to meet those difficulties. LEAs may find it helpful to inform independent schools in their area of the LEA's duty to identify children for whom they are responsible and who may require statements of special educational needs. LEAs should explain to those schools the local arrangements for school-based provision, procedures for assessment and the information they would expect to be given.

**7:25** Where parents are educating their child at home there will be occasions when parents may request an assessment. LEAs should seek evidence from the parents and professionals involved with the child so that they can consider whether it is necessary to assess.

**7:26** When a child is brought to the attention of the LEA by a request for a statutory assessment, the LEA **must** decide within six weeks whether to carry out such an assessment. They are not required to issue a notice to the parents to say that they are considering whether to make an assessment under section 323(1). However the LEA should immediately contact the parents in order to:

- investigate further the nature of their concern
- ascertain the degree of their involvement and agreement with the special educational provision that has already been made for their child at school
- give them full details of the assessment process and the information set out at paragraph 7:16 above.

**7:27** The LEA **must** inform the child's head teacher when the parents have made a request for a statutory assessment. If the parent has not already provided it, the LEA should ask the school for written evidence about the child, in particular, the school's assessment of the child's learning difficulty and the school's account of any special educational provision that has been made.

**7:28** At the same time, the LEA must notify the educational psychology service, the designated officers of the Social Services department and the health authority and any other agencies that might later be asked for advice. They will thus be 'on notice' so that if a decision is later made to carry out an assessment they will be able to provide advice to the LEA within the prescribed time limits.

**7:29** The LEA must then decide whether or not to make an assessment under section 323. The LEA should react consistently to requests from parents, schools and settings for assessments and should subsequently make open and objective judgements as to whether a statement should be issued. The LEA should reach

decisions as quickly as thorough consideration of all the issues allows and always, subject to certain prescribed exceptions, within the statutory time limits. If the LEA refuses to agree to a parent's, school's or setting's request for assessment parents have the right of appeal to the SEN Tribunal. LEAs **must** make sure that parents are informed of their rights of appeal and the time limits for lodging an appeal. They must also make sure that parents are informed of the availability of parent partnership and disagreement resolution services, and that disagreement resolution cannot affect the parent's right of appeal.

### **Children who may need immediate referral for statutory assessment**

**7:30** In the great majority of cases, before any request is made to the LEA for a statutory assessment, the school will have assessed a child's learning difficulties and will have made special educational provision to meet the child's needs. However, in a very small minority of cases, children may demonstrate such significant difficulties that the school may consider it impossible or inappropriate to carry out in full their chosen assessment procedure. For example, the school's concerns may have led to further diagnostic assessment or examination which demonstrates that a child has severe sensory or other impairment which, without immediate specialist intervention beyond the capacity of the school, will lead to increased learning difficulties, or a child may have severe emotional or behavioural difficulties which require an urgent outside-school response. (See also 8:23). There is a need for a quick response from the LEA for such children.

**7:31** Almost all pupils will remain at their mainstream school during the assessment process. There may be a very small number of exceptional cases where the child's needs mean that they would be better supported during the assessment by being placed in a special school. This will often be where immediate or emergency support is required or where any delay might further damage the child's development. Children who have special educational needs but do not have a statement must normally be educated in a mainstream school. Section 316A(2) provides flexibility to allow a child who does not have a statement to attend a special school in a number of exceptional circumstances. These are:

- where the child is being assessed to determine if a statement is needed
- where there has been a change in circumstances
- where the child is in hospital and is admitted to a special school within the hospital.

**7:32** In order to place a child in a special school during the assessment process the child's parents, the head teacher of the special school at which the child will be placed, the local education authority and anyone who is providing advice as part of the assessment process must agree to the placement. Where a child is admitted to a special school following a change of circumstances the child's parents, the head teacher of the special school at which the child will be placed and the local education authority must again agree. The LEA should make clear to parents the reason for such an assessment placement and its duration.

## Considering whether a statutory assessment is necessary

**7:33** The first task for the LEA, having notified the parents that a statutory assessment might be necessary or having received a request from the parents, school or setting for such an assessment, is to decide whether a statutory assessment must be made.

**7:34** In deciding whether to make a statutory assessment, the critical question is whether there is convincing evidence that, despite the school, with the help of external specialists, taking relevant and purposeful action to meet the child's learning difficulties, those difficulties remain or have not been remedied sufficiently and may require the LEA to determine the child's special educational provision. LEAs will need to examine a wide range of evidence. They should consider the school's assessment of the child's needs, including the input of other professionals such as educational psychologists and specialist support teachers, and the action the school has taken to meet those needs. LEAs will always wish to see evidence of, and consider the factors associated with, the child's levels of academic attainment and rate of progress. The additional evidence that authorities should seek and the questions that need to be asked may vary according to the child's age and the nature of the learning difficulty.

## Evidence for deciding whether to make a statutory assessment

**7:35** In considering whether a statutory assessment is necessary, LEAs should pay particular attention to:

- evidence that the school has responded appropriately to the requirements of the National Curriculum
- evidence provided by the child's school, parents and other professionals where they have been involved with the child, as to the nature, extent and cause of the child's learning difficulties
- evidence of action already taken by the child's school to meet and overcome those difficulties
- evidence of the rate and style of the child's progress
- evidence that where some progress has been made, it has only been as the result of much additional effort and instruction at a sustained level not usually commensurate with provision through *Action Plus*.

**7:36** The following guidance therefore concentrates on the evidence LEAs should seek from schools, settings and parents and sets out key questions, which LEAs should consider. The questions are not exhaustive: there will be other factors particular to an individual child that the LEA will wish to pursue. Nor does the guidance set out hard and fast rules whereby, if all the questions were answered in the affirmative, an assessment must always be made. Still less should an affirmative answer to any one question be taken as indicating that a statutory assessment is necessary. Decisions must be made by local education authorities in the light of all the circumstances of each individual case and, always, in the closest consultation with parents and schools.

**7:37** In the interest of establishing agreed local interpretation LEAs may operate moderating groups to support the LEA in making consistent decisions. Such groups can include head teachers, SENCOs, governors, educational psychologists and colleagues from health and social services. LEAs may use similar groups of professionals to consider the evidence for all referrals for statutory assessment, so that the LEA have the advice and support of a multi-professional team in making decisions as to whether to carry out assessments. In the latter case, the group cannot take decisions on individuals without being fully informed about the particular child and having access to all the evidence. Locally agreed processes of these kinds are good practice, but the role of these groups must be clear, public and open to scrutiny. They can help to support consistent and transparent decision-making by schools and LEAs.

### **Evidence of attainment**

**7:38** LEAs will always require evidence of the child's academic attainment in all areas of learning. Key indicators are provided by the results of assessments and tests in the core subjects of the National Curriculum at the end of key stages, through the outcomes of baseline assessment or information about progress in the 'desirable learning outcomes' where appropriate.

**7:39** However, academic attainment is not in itself sufficient for LEAs to conclude that a statutory assessment is or is not necessary. An individual child's attainment must always be understood in the context of the attainments of the child's peers, the child's rate of progress over time and, where appropriate, expectations of the child's performance. A child's apparently weak performance may, on examination of the evidence, be attributable to wider factors associated with the school's organisation. Careful consideration of evidence of low attainment may reveal good progress from a low base.

**7:40** Nonetheless, attainment is the essential starting point when considering the evidence. LEAs should always be alert to indications that a child's learning difficulties may be particularly complex or intractable. They should be alert, therefore, to significant discrepancies between:

- a child's attainments in assessments and tests in core subjects of the National Curriculum and the attainment of the majority of children of their age
- a child's attainments in assessments and tests in core subjects of the National Curriculum and the performance expected of the child as indicated by a consensus among those who have taught and observed the child, including his or her parents, and supported by such standardised tests as can reliably be administered
- a child's attainment within one of the core subjects of the National Curriculum or between one core subject and another
- a child's attainments in 'desirable learning outcomes' in comparison with the attainments of the majority of their peers.

**7:41** LEAs should therefore seek clear recorded evidence of the child's academic attainment and ask, for example, whether:

- the child is not benefiting from working on programmes of study relevant to the key stage appropriate to his or her age or from earlier key stages, or is the subject of any temporary exception from the National Curriculum under section 364 of the Education Act 1996
- the child is working at a level significantly below that of their contemporaries in any of the core subjects of the National Curriculum or the foundation stage curriculum
- there is evidence that the child is falling progressively behind the majority of children of their age in academic attainment in any of the National Curriculum core subjects, as measured by standardised tests and the teachers' own recorded assessments of a child's classroom work, including any portfolio of the child's work.

### **Other factors**

**7:42** While academic assessments will provide important evidence, LEAs should not delay their consideration of a child until up-to-date assessment results are available. LEAs should also have regard to teachers' own recorded assessments of a child's classroom work, the outcome of IEPs and any portfolio of the child's work compiled to illustrate their progress.

**7:43** LEAs should also seek evidence of any other identifiable factors that could impact on learning outcomes including:

- clear, recorded evidence of clumsiness; significant difficulties of sequencing or visual perception; deficiencies in working memory; or significant delays in language functioning
- any evidence of impaired social interaction or communication or a significantly restricted repertoire of activities, interests and imaginative development
- evidence of significant emotional or behavioural difficulties, as indicated by clear recorded examples of withdrawn or disruptive behaviour; a marked and persistent inability to concentrate; signs that the child experiences considerable frustration or distress in relation to his or her learning difficulties; difficulties in establishing and maintaining balanced relationships with his or her fellow pupils or with adults; and any other evidence of a significant delay in the development of life and social skills.

**7:44** Some factors, including significant problems in the child's home or family circumstances or their school attendance record, can contribute towards under-attainment but may not always be indicators of special educational needs. LEAs should therefore seek any evidence of such identifiable factors that could impact on learning outcomes including:

- any evidence that the child's performance is different in different environments
- evidence of contributory medical problems

- evidence from assessments or interventions by child health or social services.

**7:45** LEAs will need to consider whether the evidence points to under-attainment rather than special educational needs and thus whether there are alternative and more appropriate ways to support the child's access to learning, such as referral to the education welfare service, or to health or social services.

### **The child's special educational provision**

**7:46** Having considered evidence about the child's attainment in conjunction with other factors referred to in the preceding paragraph, the LEA may be able to identify immediate remedies that would mean that a statutory assessment was not necessary. Such remedies could include enhancing school-based provision by a referral to external agencies not already involved with the child or devising alternative forms of teaching intervention through *Early Years Action Plus* or *School Action Plus*. On the other hand, consideration of all the evidence may suggest that a statutory assessment would help to fully identify the child's special educational needs.

**7:47** In order to reach a decision, LEAs should evaluate the action already taken by the school or setting to help the child, in particular the special educational provision that has already been made. Except when the child's condition has suddenly changed, LEAs will wish to see clear evidence of the learning difficulties identified and the interventions made by the child's teachers and other professionals through *Early Years Action* and *Early Years Action Plus* or *School Action* and *School Action Plus*, together with the SENCO's evaluation of these interventions. LEAs should also ask to see evidence that information from, and the insights of, parents has been used and that, so far as possible, parents have been involved in the process of meeting the child's learning difficulties.

**7:48** In cases where it is the parents who first express a concern to the school or setting about the child's progress, the LEA should ask to see evidence that the concerns have been investigated thoroughly, in the same way as if the child's teacher had expressed a concern. LEAs should also seek any medical advice, which has been made available to the school or setting about the child, and will wish to seek information from the child's parents as to any medical condition that could be affecting the child's learning.

**7:49** In the light of evidence about the child's learning difficulty, LEAs should consider the action taken and, in particular, should ask whether:

- the school or setting has, in consultation with outside specialists, formulated, monitored and regularly evaluated IEPs and whether the child's progress, measured by criterion referenced or standardised tests, continues to be significantly and consistently less than that which may be expected for the majority of children following such programmes
- the school or setting has sought the views of and involved the child's parents
- the school or setting has actively sought the views of the child, as appropriate to their age and understanding

- the school has explored the possible benefits of, and where practicable secured access for the child to, appropriate information technology, for example word processing facilities, including spell-checkers, overlay keyboards and software, specialised switches, provision of training in the use of that technology for the child, their parents and staff, so that the child is able to use that technology across the curriculum in school, and where appropriate, at home
- the school has implemented its policy on pastoral care and guidance and sought external advice to meet any social, emotional or behavioural difficulties
- the school or setting has, with the parents' consent, notified and sought the assistance of the school doctor and/or the child's general practitioner, as appropriate.

**7:50** Where the balance of evidence presented to and assessed by the LEA suggests that the child's learning difficulties:

- have not responded to relevant and purposeful measures taken by the school or setting and external specialists

and

- may call for special educational provision which cannot reasonably be provided within the resources normally available to mainstream maintained schools and settings in the area. The LEA should consider very carefully the case for a statutory assessment of the child's special educational needs.

**7:51** These considerations apply to all children referred to LEAs by their parents or by their schools or settings. But the precise nature of the evidence that LEAs should seek about the child's learning difficulty, its apparent cause and the special educational provision made may depend in some part on the nature of the child's learning difficulty or disability, and on the child's age.

**7:52** This guidance does not assume that there are hard and fast categories of special educational need. It recognises, as LEAs will recognise, that each child is unique and that the questions asked by LEAs should reflect the particular circumstances of that child. LEAs should recognise that there is a wide spectrum of special educational needs that are frequently inter-related, although there are also specific needs that usually relate directly to particular types of impairment. Children will have needs and requirements which may fall into at least one of four areas, many children will have inter-related needs. The impact of these combinations on the child's ability to function, learn and succeed should be taken into account. The areas of need are:

- communication and interaction
- cognition and learning
- behaviour, emotional and social development
- sensory and/or physical.

**7:53** Although needs and requirements can usefully be organised into areas, individual pupils may well have needs which span two or more areas. For example, a pupil with general learning difficulties may also have behavioural difficulties or a sensory impairment. Where needs are complex in this sense it is important to carry out a detailed assessment of individual pupils and their situations. However the accumulation of low-level difficulties may not in itself equate with a school being unable to meet the child's needs through school-based provision. In some cases pupils will have needs that are not only complex but also severe.

**7:54** In considering evidence as to whether or not it is necessary to carry out a statutory assessment LEAs should bear in mind the particular requirements of the individual child, and whether these requirements can be met from the resources already available to mainstream schools and settings in their area in the context of school-based intervention, monitoring and review arrangements

### **Communication and interaction**

**7:55** Most children with special educational needs have strengths and difficulties in one, some or all of the areas of speech, language and communication. Their communication needs may be both diverse and complex. They will need to continue to develop their linguistic competence in order to support their thinking as well as their communication. The range of difficulties will encompass children and young people with speech and language delay, impairments or disorders, specific learning difficulties, such as dyslexia and dyspraxia, hearing impairment and those who demonstrate features within the autistic spectrum; they may also apply to some children and young people with moderate, severe or profound learning difficulties. The range of need will include those for whom language and communication difficulties are the result of permanent sensory or physical impairment.

**7:56** These children may require some, or all, of the following:

- flexible teaching arrangements
- help in acquiring, comprehending and using language
- help in articulation
- help in acquiring literacy skills
- help in using augmentative and alternative means of communication
- help to use different means of communication confidently and competently for a range of purposes including formal situations
- help in organising and coordinating oral and written language
- support to compensate for the impact of a communication difficulty on learning in English or Welsh as an additional language
- help in expressing, comprehending and using their own language, where English or Welsh is not the first language.

**7:57** If the LEA considers that some or all of these programmes could be provided for a child by the school in collaboration with LEA or external support services, then the LEA may conclude that intervention should be provided at *School Action Plus* and monitored to see if the action was effective. It would then be appropriate for the LEA to conclude that a statutory assessment was not necessary. If, on the other hand, the school and support services had already provided these interventions through *School Action Plus* and the child had not made acceptable progress, then a statutory assessment should be considered.

## **Cognition and learning**

**7:58** Children who demonstrate features of moderate, severe or profound learning difficulties or specific learning difficulties, such as dyslexia or dyspraxia, require specific programmes to aid progress in cognition and learning. Such requirements may also apply to some extent to children with physical and sensory impairments and those on the autistic spectrum. Some of these children may have associated sensory, physical and behavioural difficulties that compound their needs. These children may require some, or all, of the following:

- flexible teaching arrangements
- help with processing language, memory and reasoning skills
- help and support in acquiring literacy skills
- help in organising and coordinating spoken and written English or Welsh to aid cognition
- help with sequencing and organisational skills
- help with problem solving and developing concepts
- programmes to aid improvement of fine and motor competencies
- support in the use of technical terms and abstract ideas
- help in understanding ideas, concepts and experiences when information cannot be gained through first hand sensory or physical experiences.

**7:59** As indicated in paragraphs 7:46 and 7:47, the LEA will need to consider, on an individual basis, whether these programmes can be provided through intervention at *School Action Plus*, or whether the LEA should undertake a statutory assessment. The decision may depend on the severity of the child's cognitive ability and any associated needs that compound the child's difficulties in accessing the curriculum. If solutions for a child have moved beyond ordinary differentiation to a solution where specific input is necessary not just to provide access to learning but more importantly to secure learning or to develop strategies to overcome particular areas of weakness, then an assessment may be necessary.

## **Behaviour, emotional and social development**

**7:60** Children and young people who demonstrate features of emotional and behavioural difficulties, who are withdrawn or isolated, disruptive and disturbing, hyperactive and lack concentration; those with immature social skills; and those

presenting challenging behaviours arising from other complex special needs may require help for some, or all, of the following:

- flexible teaching arrangements
- help with development of social competence and emotional maturity
- help in adjusting to school expectations and routines
- help in acquiring the skills of positive interaction with peers and adults
- specialised behavioural and cognitive approaches
- re-channelling or re-focusing to diminish repetitive and self-injurious behaviours
- provision of class and school systems which control or censure negative or difficult behaviours and encourage positive behaviour
- provision of a safe and supportive environment.

**7:61** The LEA will need to consider, on an individual basis, whether these interventions can be provided through School Action Plus or whether the LEA needs to undertake a statutory assessment.

### **Sensory and/or physical needs**

**7:62** There is a wide spectrum of sensory, multi-sensory and physical difficulties. The sensory range extends from profound and permanent deafness or visual impairment through to lesser levels of loss, which may only be temporary. Physical impairments may arise from physical, neurological or metabolic causes that only require appropriate access to educational facilities and equipment; others may lead to more complex learning and social needs; a few children will have multi-sensory difficulties some with associated physical difficulties. For some children the inability to take part fully in school life causes significant emotional stress or physical fatigue. Many of these children and young people will require some of the following:

- flexible teaching arrangements
- appropriate seating, acoustic conditioning and lighting
- adaptations to the physical environment of the school
- adaptations to school policies and procedures
- access to alternative or augmented forms of communication
- provision of tactile and kinaesthetic materials
- access to different amplification systems
- access to low vision aids
- access in all areas of the curriculum through specialist aids, equipment or furniture
- regular and frequent access to specialist support.

**7:63** For the children with the most complex physical needs and the most severe sensory losses it is likely that the LEA will consider a statutory assessment to be necessary. The governing factors are probably the extent of specialist teaching or aids and adaptations which are required. However, for many children with a lesser level of sensory or physical needs intervention at School Action Plus will be appropriate.

## **Medical conditions**

**7:64** A medical diagnosis or a disability does not necessarily imply special educational needs. It may not be necessary for a child or young person with any particular diagnosis or medical condition to have a statement, or to need any form of additional educational provision at any phase of education. It is the child's educational needs rather than a medical diagnosis that must be considered. Some pupils may not require statements or school-based SEN provision but they have medical conditions that, if not properly managed, could hinder their access to education.<sup>47</sup>

**7:65** In some cases, medical conditions may have a significant impact on the child's experiences and the way they function in school. The impact may be a direct one in that the medical condition may affect the child's cognitive abilities, physical abilities, behaviour or their emotional state. The impact of a medical condition may also be indirect, for example: by disrupting a child's access to education; through unwanted effects of treatment; and through the psychological effects which serious or chronic illness or disability can have on a child and their family. The effects of a medical condition may be intermittent and their impact on the child's function in school can vary at different stages of their school career. This may reflect changes in the school curriculum, changes in the individual child and changes in the peer group for example, with the onset of puberty.

**7:66** Consultation and open discussion between the child's parents, the school, the school doctor or the child's general practitioner, the community paediatrician and any specialist services providing treatment for the child will be essential to ensure that the child makes maximum progress. Such collaboration should also ensure that the child is not unnecessarily excluded from any part of the curriculum or school activity because of anxiety about their care and treatment.

**7:67** Schools should ensure that their own pastoral care arrangements allow children and young people to discuss any health related and other problems with a relevant health professional, educational psychologist, education welfare officer, counsellor or other professional. The school and family should liaise in providing maximum support for the child.

## **Deciding that a statutory assessment is necessary**

**7:68** Within six weeks of notifying parents that a statutory assessment is being considered or within six weeks of parents, schools and settings requesting an assessment, the LEA must tell the parents and the school or setting (if they made the request) whether or not they will make a statutory assessment. The 29-day period within which parents may make representations is part of the six weeks.

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<sup>47</sup> National Assembly Circular 34/97, (Welsh Health Circular 97/31): 'Supporting Pupils with Medical Needs in Schools' provides advice for schools on drawing up medication policies and putting in place effective management systems to support pupils with medical needs..

**7:69** Decision not to make a *statutory assessment*: if the LEA decides it is not necessary to carry out a statutory assessment they **must** inform the parents and explain the reasons; they should also set out the provision that they consider would meet the child's needs appropriately. The decision not to make a statutory assessment may be a severe disappointment to the child's parents and may also be unwelcome to the child's school. Regardless of whether the initiative for a possible assessment came from the LEA or a request from the parents or school, the LEA should write to the school, as well as the child's parents, giving full reasons for their decision.

**7:70** The LEA should endeavour to ensure that the parents fully understand the school-based provision and their monitoring and review arrangements. In some cases, it may be helpful for the LEA's Named Officer to meet the parents to explain the position in detail. The LEA may consider it appropriate for the child's head teacher or SENCO to be present at such a meeting. A meeting of this kind will be particularly useful where it is clear that there is disagreement between the parents and the school about the child's progress and attainments at school, the appropriateness of school-based provision or about the need for a statutory assessment.

**7:71** Where parents have formally requested a statutory assessment under section 328 or 329, or where their child's school or setting has made a request under section 329(A), the parents may appeal to the SEN Tribunal against a decision not to make an assessment. LEAs **must** inform parents of the right to appeal and the time limits for appeal, the availability of disagreement resolution services and the fact that these do not affect the parent's right of appeal.

### **Time limits for making assessments**

**7:72** It is in the interests of all concerned that statutory assessments are carried out in a timely manner. It is important that each part of the process is conducted with all reasonable speed. The LEA may decide, having proposed to make an assessment, that they need not make that assessment, or having assessed the child, that they need not issue a proposed statement. Parents should be informed as quickly as possible of such decisions and of the appropriate alternative arrangements that will be made. LEAs **must** inform parents of the right of appeal to the SEN Tribunal at all appropriate stages of the statutory process.

**7:73** Regulations set out time limits in which the various parts of the process of making statutory assessments and statements must normally be conducted. The cumulative effect of these time limits is that the period from the receipt of a request for a statutory assessment or the issue of a notice to parents under section 323(1) or section 329A(3) to the issue of the final copy of the statement should normally be no more than 26 weeks. A flow chart can be found at 8:134.

### **Making the assessment**

**7:74** After deciding to make a statutory assessment the LEA must seek parental, educational, medical, psychological and social services advice. They must also seek any other advice they consider appropriate<sup>48</sup> and, where reasonable, should consult those whom the parents have named. They should do so immediately and should ask all concerned to respond within six weeks.

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<sup>48</sup> If a child is currently the subject of public law proceedings it would be advisable for the LEA to involve the Children's Guardian (formerly known as the guardian ad litem) in the assessment process.

**7:75** At this point parents **must** be informed that, as part of the process of putting together all the relevant advice, their child may be called for an examination or assessment. If their child is to be examined or assessed, parents must also be informed of their right to be present with their child at any interview, test, medical or other assessment which is being conducted and should be told of the time, place and purpose of appointments. They **must** also be told of the name of an LEA officer from whom they can obtain further information, and that they have the right to submit information to the LEA if they want to. Parents should be told that, whilst it is their right to be present, in certain circumstances it may be counterproductive: for instance, where a classroom observation is carried out as part of the assessment, a child will behave differently if their parents are present, which would negate the purpose of the observation.

**7:76** The health services and social services departments **must** normally respond within six weeks of the date of receiving the request for advice. The LEA will have previously notified the designated medical officer and the designated social services officer of the possibility of an assessment.

**7:77** The health services and social services departments are not obliged to respond within six weeks if they have had no relevant knowledge of the child concerned prior to the LEA informing them that they were considering whether to assess, or prior to the LEA notifying the health and social services that they have received a request for an assessment. In those circumstances, however, the health service and social services departments should make every effort to respond promptly.

### **Requests for advice**

**7:78** The LEA must now proceed to seek the advice required as part of the process of statutory assessment. The LEA must always give copies of any representations made by or evidence provided by the child's parents, under section 323(1)(d) or section 329A(3)(d) to those from whom advice is sought.

**7:79** LEAs should make clear that the Regulations<sup>49</sup> require that the advice **must** relate to the educational, medical, psychological, or other features that appear relevant to a child's current and future educational needs. The advice **must** also set out how those features could affect the child's educational needs and the provision that is considered appropriate in the light of those features. Those giving advice may comment on the amount of provision they consider appropriate. Thus LEAs should not have blanket policies that prevent those giving advice from commenting on the amount of provision they consider a child requires.

**7:80** However the advice, provided by all professionals, should **not** be influenced by consideration of the name of the school at which the child might eventually be placed. Specific schools or types of schools must not be suggested. Placement will be determined by the LEA at a later stage and in the light of any preference stated by or representations made by the parents. But discussions between advisers and parents about the child's needs may include consideration of various options, including the scope for mainstream education for the child and the type of school in which the child's needs might best be met, for example mainstream,

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49 Education (Special Educational Needs) (Wales) Regulations 2002

special or residential. But such discussions should not commit the LEA, nor pre-empt the parents' statement of a preference, any representations they might make or the LEA's eventual decision.

**7:81 LEA requests for advice should be accompanied by notification of the date by which the advice must be submitted.**

**7:82** For the purpose of making a statutory assessment, the LEA **must** seek written:

- A. Parental advice**
- B. Educational advice**
- C. Medical advice**
- D. Psychological advice**
- E. Social services advice**
- F. Any other advice (such as the ascertainable wishes of the child) which the LEA or any other body from whom advice is sought, consider desirable. In particular advice from Service Children's Education (SCE) (see Glossary) must be sought where the child's parent is a serving member of the armed forces.**

**7:83** In the light of educational advice received from the school or early education setting, the LEA should consider whether they should seek separate advice from a teacher or professional from a support service who has been working with the child and the school or setting before the request for statutory assessment.

**7:84** If it appears to the LEA that the child has sensory difficulties, the LEA **must** obtain educational advice from a teacher qualified to teach children who are visually or hearing impaired as well as from the school or setting.

### **Views of the child**

**7:85** *LEAs should also seek to ascertain the views of children and young people as part of the assessment.* They will be able to contribute valuable information about themselves and the ways in which they might like their needs to be met. A child's views about their needs and aspirations should, wherever possible, be recorded as part of the statutory assessment process. The LEA may consider providing a pupil report form for this purpose. Pupils who are able to do so could submit their views themselves on such a form. Where children or young people need help, special arrangements for gathering the child's views could include asking parents, educational psychologists, class teachers or form tutors and other adults who know the child well. Suggested guidelines for completing advice and suggestions for consulting children and young people are provided in the National Assembly Handbook of Good Practice for Children with SEN..

### **Next steps**

**7:86** Having received all the advice, the LEA **must** decide whether it needs to make a statement or amend an existing statement. It **must** make that decision within ten weeks of serving the notice under section 323(4) or 329A(7).

**7:87** If the LEA decides that a statement or amended statement is necessary, it must draft a proposed statement or proposed amended statement and send a copy to the child's parents within two weeks. The advice received as part of the assessment should be attached. It is also good practice to send a copy of the draft to those who gave advice; it would then be possible to amend any misconceptions that have arisen in interpreting the advice, prior to finalising the statement.

**7:88** If the LEA decides that a statement or an amended statement is not necessary, it must notify the parents and give reasons, and should also notify the school of that decision, giving the reasons, and preferably provide a note in lieu of the statement, also within two weeks. The period from the service of the notice under 323(4) or section 329A(7) to the issue of a proposed statement or a note in lieu of a statement should therefore normally be no more than 12 weeks.

**7:89** The LEA should receive all the necessary advice within six weeks of the issue of the notice under section 323(4) or section 329A(7), although the guidance sets out a maximum time span of ten weeks. The LEA must therefore decide whether to make a statement by the end of the ten weeks; and send parents a proposed statement or the written reasons why it will not make a statement, preferably in the form of a note in lieu, within a further two weeks. Further guidance on writing a note in lieu is to be found at paragraphs 8:15-8:22.

**7:90** The critical point is that parents must normally receive formal notification of the outcome of the assessment within 12 weeks of the start of the statutory assessment. Where the LEA decides not to assess parents **must** be informed of their right to appeal to the SEN Tribunal, the time limits for lodging an appeal, the availability of parent partnership and disagreement resolution services and that using disagreement resolution will not affect the parent's right of appeal.

### **Exceptions to the time limits**

**7:91** In describing the role of LEAs, the health services and social services in making a statutory assessment, this chapter has highlighted the time limits that these bodies must normally meet. There will however be circumstances in which it is not reasonable to expect the bodies concerned to meet those time scales and the normal time limits do not therefore apply. It is good practice for parents to be told if the exceptions apply, so that they understand the reasons for any delays.

**7:92** The Education (Special Educational Needs) (Wales) Regulations 2002 set out the exceptions to:

- the six-week time limit within which LEAs must tell parents whether they will or will not make a statutory assessment
- the ten-week time limit within which LEAs must make an assessment
- the six-week time limit within which the health services and social services departments must provide information.

**7:93** LEAs should always strive to ensure that any delay arising from the exceptions is kept to a minimum. As soon as the conditions that have led to an exception no longer apply, the LEA should endeavour to complete the process as

quickly as possible. Any remaining components of the process must, of course, be completed within their prescribed periods, regardless of whether exceptions have delayed earlier components.

### **Requests for further statutory assessments**

**7:94** Under section 328 of the Education Act 1996, the parents of a child with a statement may request a new assessment of that child under section 323 of the Act. The LEA **must** comply with such a request, so long as:

- no such assessment has been made within the previous six months; and
- the LEA concludes that it is necessary to make a further assessment.

**7:95** Under section 329A of the Education Act 1996 the child's school or setting may also request a new assessment of the child. The LEA **must** comply with such a request so long as:

- no such assessment has been made within the previous six months; and
- the LEA concludes that it is necessary to make a further assessment.

**7:96** The LEA must follow the procedures set out at 7.16 The LEA should consider all such requests carefully. In particular they should consider whether there have been changes that have impacted significantly on the child's special educational needs. If the request for a further assessment originates from an annual review, much of the necessary information on which to base their decision will already be available to the LEA.

**7:97** If the LEA concludes that a further assessment is not necessary, it **must** inform the parents, telling them of the decision and of their right to appeal to the SEN Tribunal and the time limits for appeal, the availability of disagreement resolution procedures and that those procedures will not affect the parent's right to appeal. The LEA **must** always give parents full reasons for its decision. The LEA may wish to arrange a meeting between the parents and the school. If the request was made by the school or setting the LEA **must** also give them notice of their decision and their reasons for it.

**7:98** If the LEA decides that a further assessment is necessary, the procedures and time limits set out in this chapter apply. The resultant statement will supersede the previous statement.

## 8 Statements of Special Educational Needs

**Where, in the light of a section 323 assessment, it is necessary for the LEA to determine the special educational provision which the child's learning difficulty calls for, the LEA shall make and maintain a statement of his or her special educational needs.**

**See section 324(1), Education Act 1996**

### Introduction

**8:1** Once all the advice requested for the statutory assessment has been received, as described in Chapter Seven, the LEA must decide whether to draw up a statement. The LEA may decide that the degree of the child's learning difficulty and the nature of the provision necessary to meet the child's special educational needs is such as to require the LEA to determine the child's special educational provision through a statement.

**8:2** The LEA will make this decision when it considers that the special educational provision necessary to meet the child's needs cannot reasonably be provided within the resources normally available to mainstream schools and early education settings<sup>50</sup> in the area.

**8:3** Maintained schools, other than special schools, should have within their delegated budget some funding that reflects the additional needs of pupils with special educational needs. They receive this through a funding formula that reflects the incidence of SEN measured in various ways. The budget statements that LEAs are required to produce under section 52 of the School Standards and Framework Act 1998 must show each school's notional budget for SEN.

**8:4** LEAs are required under the Special Educational Needs (Provision of Information by Local Education Authorities) (Wales) Regulations 2002 to publish from April 2002, details of the kinds of support arrangements maintained schools in their area might normally provide from their budgets under School Action and School Action Plus. They are also required to publish their own plans for providing appropriate SEN support – particularly under School Action Plus.

**8:5** Where extra resources are required to enable a school to make the provision specified in statements, the LEA can provide those resources directly from central provision, devolve them to schools on an earmarked basis or delegate them. Funds for pupils with statements in both mainstream and special schools have been delegated in a number of local education authorities with clear benefits in terms of more stable staffing arrangements, prompt and flexible responses to newly identified needs, better training and improvements in the skills of those working with children with special educational needs.

**8:6** However resources are provided, schools and LEAs have specific duties in relation to children with special educational needs which funding for SEN should support. Community, foundation and voluntary school governing bodies are required under section 317 of the Education Act 1996 to use their best endeavours to see that pupils with special educational needs receive the help their learning

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<sup>50</sup> In this chapter schools also refers to early years education settings, except in respect of funding arrangements.

difficulties call for. They are accountable through their reports to parents for how resources are allocated to and amongst pupils with special educational needs and the effectiveness of their provision for SEN. LEAs have a duty under section 324 of the Education Act 1996 to arrange the special educational provision in a child's statement. LEAs may provide the facility in their funding arrangements to intervene where a pupil is not receiving the provision in their statement and make the arrangements themselves, charging the costs to the school's budget.

**8:7** In the light of their statutory duties, LEAs and schools should work together to establish sound arrangements for monitoring and accountability to ensure that resources are used to raise the achievement of pupils with SEN. These arrangements should promote greater transparency and should be based on a clear statement that indicates the respective responsibilities of LEAs and governing bodies and explains how these responsibilities will be supported through the LEA's school funding arrangements. They should focus on the effectiveness of provision made for pupils with SEN and look to ensure that children make progress and achieve well, provision specified in statements is made, and the input of LEA and other support services is effective.

### **Criteria for deciding to draw up a statement**

**8:8** As with the evidence for deciding whether a statutory assessment is necessary, the guidance set out below provides a framework within which it is important that schools, LEAs and other agencies involved develop the detail of local interpretation.

**8:9** It is helpful for LEAs to set up moderating groups to support transparency in decision-making. Such groups can ensure consistent decisions are made about whether to make statements. Through sampling and retrospective comparison, moderating groups can also help LEA practice become more robust and clearly understood by schools, early education settings and parents.

**8:10** In deciding whether to draw up a statement the LEA should consider all the information gathered during the statutory assessment and relate it to that presented by the school at the time of any request for assessment.

**8:11** LEAs may therefore wish to consider the following:

#### **a. the child's learning difficulties**

- does the information on the child's learning difficulties provided in the advice for the statutory assessment broadly accord with the original evidence presented by the school?
- if not, are there aspects of the child's learning difficulties which the school may have overlooked and which, with the benefit of advice, equipment or other provision, the school could effectively address through School Action or School Action Plus?

#### **b. the child's special educational provision**

- do the proposals for the child's special educational provision arising from any of the assessment advice indicate that the special educational provision being made by the school, including teaching strategies or other approaches, is appropriate to the child's learning difficulties?

- if not, are there approaches which, with the benefit of advice, equipment or other provision, the school could effectively adopt within its own resources through School Action or School Action Plus?

## Consideration of the provision that may need to be made

**8:12** If the statutory assessment confirms that the assessment and provision made by the school or early education setting is appropriate but the child is nonetheless not progressing, or not progressing sufficiently well, the LEA should consider what further provision may be needed and whether that provision can be made within the school's or setting's resources or whether a statement is necessary.

**8:13** The following are examples of possible approaches

If the LEA conclude that, for example, the child's learning difficulties call for:

- occasional or irregular advice to the school from an external specialist
- occasional or irregular support with personal care
- access to a particular piece of equipment such as a portable word-processing device, an electronic keyboard or a tape-recorder, or
- minor building alterations such as improving the acoustic environment<sup>51</sup>

the LEA may feel that the school could reasonably be expected to make such provision from within its own resources through School Action Plus. If so, they will then need to set out their reasons for reaching this conclusion clearly in a note in lieu (described in more detail below).

Where the LEA conclude that a change of placement may be indicated for the child, even if such a change involves moving from a mainstream school to a specialist resource at the same school or another mainstream school, they should consider drawing up a statement.

If the LEA conclude that, for example, the child's learning difficulties call for:

- regular and frequent direct teaching by a specialist teacher
- daily individual support from a learning support assistant
- a significant piece of equipment such as a closed circuit television or a computer or CD-ROM device with appropriate ancillaries and software
- the regular involvement of non-educational agencies

the LEA may conclude that the school could not reasonably be expected to make such provision within its own resources and that the nature of the provision suggests that the LEA should formally identify in a statement the child's needs, the full range of provision to be made and the review arrangements that will apply. The LEA's conclusions will, of course, depend on the precise circumstances of each case, taking into account arrangements for funding schools in the area.

Where the LEA conclude that a day or residential special school placement might be necessary, they should draw up a statement.

<sup>51</sup> Responsibility between the LEA and the school for particular building works will depend on the scope of the formula capital allocation to schools in the particular LEA.

**8:14** The decision as to whether to make a statement should be determined by the child's identifiable special educational needs in the context of arrangements for funding schools in the area. LEAs should, of course, arrange for the provision specified in a child's statement to be made in a cost-effective manner, but that provision must be consistent with the child's assessed needs. The efficient use of resources must be taken into account when an LEA is considering the placement of a child with a statement, once the parents have had an opportunity to express a preference – see from 8:58–69.

### **Decision not to issue a statement: a note in lieu**

**8:15** Within two weeks of completing the statutory assessment the LEA must decide whether or not they will make a statement. They may conclude that the child's special educational needs can be met from within the school's own resources, with or without the intervention of a professional service from outside the school – that is special educational provision can be made through School Action or School Action Plus. Where an LEA decides not to make a statement they must write to the parents telling them of that decision and the reasons for it no later than two weeks after completion of the assessment. The LEA must also tell the parents of their right to appeal to the SEN Tribunal against the decision and set out the time limits for appeal, the availability of parent partnership and disagreement resolution services, and the fact that the parent's right of appeal cannot be affected by any disagreement resolution procedure.

**8:16** The decision not to issue a statement may be disappointing to parents and be seen as a denial of additional resources for their child. The LEA should ensure that the parents (and the school) are aware of the resources available within all maintained schools to meet special educational needs; that the parents fully understand school-based provision for SEN; and understand too that there are monitoring and review arrangements in maintained schools which will ensure that their child's needs are met by the school, with external support if necessary, in an appropriate way.

**8:17** The statutory assessment will have contributed significantly to the school's, parents' and the LEA's knowledge of the child. The LEA should therefore consider issuing a note in lieu of a statement. In such a note the LEA should set out the reasons for their conclusions, with supporting evidence from the statutory assessment of the child. All advice collected as part of the statutory assessment should be sent to the parents and, subject to their agreement, to the child's school and any other professionals who have given advice during the assessment process. This procedure will put to good use the information that emerges from the child's statutory assessment. Those working with the child in school to augment their strategies for meeting the child's special educational needs can use the information. As good practice LEAs may wish to consider arranging for the parents to meet with the LEA Named Officer and the head teacher or SENCO of the child's school, in order to ensure that all parties understand the reasons for the LEA's decision, the note in lieu and the provision to be made.

**8:18** In some cases, the LEA may be able to decide very quickly that it is not necessary to make a statement: parents should be informed immediately through the issue of a written notice under section 325(1) or 329A(8). The LEA must always give their reasons. But the writing of a comprehensive and useful note in lieu will

very often require as much thought and time as the drafting of a proposed statement. Indeed, the decision whether to make a statement or to issue a note in lieu may only become clear when the LEA officer marshals all the information and sets out the child's educational and non-educational needs and the provision required to meet those needs.

**8:19** It may be appropriate for the format of a note in lieu to broadly follow the statutory format of the statement, although it will always be essential to make clear the different legal status of the two documents.

**8:20** While the layout of any note in lieu is a matter for the LEA concerned, it is good practice for the first part to describe the child's special educational needs, based on the supporting evidence attached in the form of all the advice gathered during the assessment. The second part of the note should set out the LEA's reasons for deciding not to make a statement and offer guidance as to the special educational provision that might appropriately be made for the child from school resources, with specialist advice if necessary, but without being determined by the LEA. The third part might then, again reflecting the advice received and appended and agreement between the LEA and the agencies concerned, describe any non-educational needs and appropriate provision.

**8:21** The statutory assessment process ends when the LEA decides whether or not they will make a statement. That decision must normally be taken within ten weeks of the issue of a notice under section 323(4) or 329A(7). The statutory time limits within which the LEA must either inform parents that they will not make a statement or issue to parents a proposed statement are then the same: normally, no more than two weeks after making their decision.

**8:22** So, normally no more than 12 weeks after the issue of a notice under section 323(4) or 329A(7) that they will make a statutory assessment, the LEA must either:

- a. issue a notice under section 325(1) that they will not make a statement and explain their reasons (whether in the form of a note in lieu or otherwise), or
- b. issue a proposed statement, together with a written notice under Schedule 27, paragraph 2.

## **Assessment and emergency placements**

**8:23** In exceptional cases it may be necessary to make an emergency placement for a child, for example where:

- a. the child's medical circumstances have changed suddenly, causing a rapid and serious deterioration in the child's health or development
- b. the parents, school, relevant professionals and the LEA agree that a sudden and serious deterioration in the child's behaviour make the child's current placement untenable or unsafe
- c. where a child arriving unexpectedly in the LEA exhibits such significant learning difficulties as would normally warrant a statement; the LEA should consult the parents and those immediately concerned, including the previous LEA, about the most appropriate placement

- d. where a young person returns home from a secure unit or young offender institution.

**8:24** An emergency placement should only be made when the LEA, parents, school and relevant professionals are all agreed that the child's needs are such that action must be taken immediately and an emergency placement is the best way forward.

**8:25** When an emergency placement is made, the LEA should immediately initiate a statutory assessment or reassessment. It is likely that the assessment will conclude that a statement should be made, or amendments made to an existing statement. If the child has been placed and will remain in a special school, a statement should always be made. The circumstances in which a child without a statement can be placed in a special school are discussed at 7:30 – 33.

**8:26** If, however, the assessment concludes that a statement is not necessary, the child's emergency placement should be reconsidered. Decisions about how the child's needs should be best met in the longer term should not be prejudiced by the nature of the emergency placement. If a child without a statement has been placed in a special school for an assessment but it is decided that no statement is necessary, the child can only remain in the school for 10 school days after the LEA has notified the parent that they do not intend to make a statement.

**8:27** Statements drawn up or amended following an emergency placement should include detailed objectives with clearly specified review arrangements to monitor the efficacy of the provision made for the child. Whilst the LEA has a duty to review the statement on an annual basis, they may wish to use their powers to review more frequently and to ask for interim reports on the child's progress.

**8:28** Where a social services department makes an emergency placement out of their own budget for a child with a statement of SEN, they should immediately inform the LEA, especially where the placement is in an independent school.

## Writing the Statement

**Where an LEA, having made an assessment of a child, decide to make a statement, they shall serve a copy of a proposed statement and a written notice on the child's parent within two weeks of the date on which the assessment was completed.**

**See Schedule 27, Education Act 1996 and Special Educational Needs (Wales) Regulations 2002**

**8:29** The notice must be in the form prescribed in Schedule 1 to the Regulations. The statement of special educational needs must follow the format and contain the information prescribed by the Regulations (see Schedule 2 to the Regulations):

**Part 1 *Introduction*: The child's name and address and date of birth. The child's home language and religion. The names and address (es) of the child's parents.**

**Part 2 *Special Educational Needs*: Details of each and every one of the child's special educational needs as identified by the LEA during statutory**

assessment and of the advice received and attached as appendices to the statement.

**Part 3 *Special Educational Provision:*** The special educational provision that the LEA consider necessary to meet the child's special educational needs.

- a. The *objectives* that the special educational provision should aim to meet.
- b. The *special educational provision* which the LEA consider appropriate to meet the needs set out in Part 2 and to meet the objectives.
- c. The arrangements to be made for monitoring progress in meeting those objectives, particularly for setting short-term targets for the child's progress and for reviewing his or her progress on a regular basis.

**Part 4 *Placement:*** The type and name of school where the special educational provision set out in Part 3 is to be made or the LEA's arrangements for provision to be made otherwise than in school.

**Part 5 *Non-Educational Needs:*** All relevant non-educational needs of the child as agreed between the health services, social services or other agencies and the LEA.

**Part 6 *Non-Educational Provision:*** Details of relevant non-educational provision required to meet the non-educational needs of the child as agreed between the health services and/or social services and the LEA, including the agreed arrangements for its provision.

## Signature and date

**8:30** All the advice obtained and taken into consideration during the assessment process must be attached as appendices to the statement:

**The advice appended to the statement must include:**

- A. **Parental evidence**<sup>52</sup>
- B. **Educational advice**
- C. **Medical advice**
- D. **Psychological advice**
- E. **Social services advice**
- F. **Any other advice, such as the views of the child, which the LEA or any other body from whom advice is sought consider desirable. In particular, where the child's parent is a serving member of the armed forces, advice from Service Children's Education (SCE).**

**8:31** LEAs should draft clear, unambiguous statements. Where diagnostic or technical terms are necessary or helpful, for example in referring to specific disabilities, their meaning should be explained in terms that parents and other

<sup>52</sup> Parental evidence will include parental representations presented to the LEA when considering the need for an assessment, and parental views and evidence submitted as part of the assessment and, when the statement is finalised, any parental representations made in response to the proposed statement.

non-professionals will readily understand. LEAs should take particular care to ensure that the text is placed in the correct part, so as to correspond with the form set out in Schedule 2 to the Education (Special Educational Needs) (Wales) Regulations 2002. Further detailed advice is provided in the National Assembly Handbook of Good Practice for Children with SEN.

## **Part 2: Special educational needs**

**8:32** Part 2 of the statement should describe all the child's learning difficulties identified during the statutory assessment. It should also include a description of the child's current functioning – what the child can and cannot do. The description in Part 2 should draw on and may refer to the professional advice attached in the appendices. Where the LEA adopt that advice in their description of the child's learning difficulties, they should say that they have done so. But merely stating that they are adopting the advice in the appendices is not sufficient. The advice received may contain conflicting opinions or opinions open to interpretation, which the LEA must resolve, giving reasons for the conclusions they have reached. All advice must be considered and appended to the statement. Part 2 should be set out in a fashion which can relate directly to the description of provision set out in Part 3 (b).

## **Part 3: Special educational provision**

**8:33** Once a child's special educational needs have been assessed and set out in full in Part 2, the LEA must specify, in Part 3, the special educational provision to meet those needs. The key objective in specifying provision is to help the child to learn and develop.

**8:34** Part 3 of the statement is divided into three sub-sections:

- a. **the first sub-section** should set out the main objectives which the provision aims to meet. These objectives should directly relate to the needs set out in Part 2 and should be described in terms that will allow the LEA and the school to monitor and review the child's progress over time. They should generally be of a longer-term nature than the more specific, short-term targets in the child's Individual Education Plan.
- b. **the second sub-section** should specify all of the special educational provision the LEA consider appropriate for all the learning difficulties in Part 2, even where some of the provision will be made by direct intervention on the part of the authority, some will be made by the child's school from within its own resources, and some may be made by the health authority. It is the LEA that is responsible for arranging the provision in the statement, irrespective of who actually delivers it, unless the LEA is satisfied that the child's parents have themselves made suitable arrangements.

**8:35** The Education (Special Educational Needs) (Wales) Regulations 2002 say that a statement **must** specify:

- (a) any appropriate facilities and equipment, staffing arrangements and curriculum

- (b) any appropriate modifications to the application of the National Curriculum
- (c) any appropriate exclusions from the application of the National Curriculum, in detail, and the provision which it is proposed to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum; and
- (d) where residential accommodation is appropriate, that fact.

**8:36** A statement should specify clearly the provision necessary to meet the needs of the child. It should detail appropriate provision to meet each identified need. It will be helpful to the child's parents and teachers if the provision in this sub-section is set out in the same order as the description of needs in Part 2.

**8:37** LEAs must make decisions about which actions and provision are appropriate for which pupils on an individual basis. This can only be done by a careful assessment of the pupils' difficulties and consideration of the educational setting in which they may be educated. Provision should normally be quantified (e.g. 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. It will always be necessary for LEAs to monitor, with the school or other setting, the child's progress towards identified outcomes, however provision is described. LEAs must not, in any circumstances, have blanket policies not to quantify provision.

**8:38** LEAs should also set out, in accordance with section 364 of the Education Act 1996, any disapplications or modifications of the provisions of the National Curriculum (in terms of attainment targets, programmes of study and assessment arrangements) which they consider necessary to meet the child's special educational needs, together with details as to how a broad and balanced curriculum is to be maintained. It is not necessary to modify National Curriculum provisions to enable a child to study at a lower level than applies to most of the pupils working within the same key stage. Where pupils are educated at home by their parents there is no requirement to deliver the National Curriculum. Where pupils are at the foundation stage this section should set out how the special educational provision will enable the child to access the curriculum with reference to the early learning goals.

**8:39** For pupils whose assessment is close to their preparation for GCSEs or vocational examinations, the LEA should indicate any special examination provision recommended to enable the pupil to have full access to the examination and demonstrate their attainment. In some cases, approval may be needed in advance from Awarding Bodies. This is rarely a complex process and is handled by the centre where the pupil takes their examinations, usually their school.<sup>53</sup>

- c. **the third sub-section** should describe the arrangements to be made for setting shorter-term educational and developmental targets for the child. The targets themselves should not be part of the statement but should form an integral part of their IEP. By their nature such targets will require regular review and revision while the longer-term objectives in sub-

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<sup>53</sup> A pupil does not need a statement in order to benefit from any concessions that an Examination Group might grant to a pupil with special educational needs.

section 1 will not. The child's school should devise the first IEP, in consultation with their parents and, where appropriate the child, within two months of placement at a different school, or immediately the statement is finalised if the child remains in the same school. The child's achievements, in the light of the IEP, should be reviewed at least twice a year by the school, and fully considered at the first annual review of the statement when further targets can be set.

**8:40** This sub-section should also identify any special arrangements for the annual review of the statement and recognise the need for the school to monitor and evaluate the child's progress during the course of the year. LEAs must review a child's statement at least once a year. The review should consider the child's progress towards the objectives in sub section 1 and in relation to the shorter-term objectives and targets set out by the school in the child's Individual Education Plan (IEP). It should also consider whether any changes are needed to the provision with reference to the child's progress.

**8:41** *All the information in Part 3 should be written so as to be easily understood by all those involved in the child's education, including their parents.*

#### **Part 4: Placement**

**8:42** In the final statement, Part 4 will set out the type of school and any particular school which the LEA consider appropriate for the child, or the LEA's arrangements for the provision for education otherwise than at school which the LEA consider appropriate. But this Part must be left blank when the proposed statement is issued, so that the LEA do not pre-empt consideration of any preference for a maintained school which the parents may state, or any representation the parents may make in favour of a non-maintained special or independent school (see Glossary).

#### **Part 5: Non-educational needs**

**8:43** Part 5 should set out any non-educational needs of the child which the LEA either propose to meet or are satisfied will be met, by arrangement or otherwise, by the health services, social services department or some other body.

#### **Part 6: Non-educational provision**

**8:44** Part 6 should set out the non-educational provision which is required to meet the needs identified in Part 5 and which the LEA either propose to make available or are satisfied will be provided by the social services department commissioned by the health authority in discussion with the Local Health Group or NHS Trust for the area, or by other providers. The designated officer for social services should work with the LEA to confirm social services provision and the medical officer for special educational needs should liaise as necessary to ensure that the health service contribution has been confirmed.

**8:45** Part 6 should also state the objectives to be achieved by such non-educational provision and should set out such arrangements as have been agreed by the LEA and the providing body for its delivery.

**8:46** When describing a child's educational and non-educational needs and provision, the LEA should ensure that the needs are clearly and accurately

described and that there is full agreement on the nature of the provision necessary to meet those needs, consulting the relevant responsible professionals as necessary.

**8:47** LEAs should explain to parents that whilst Parts 2, 3 and 4 of the statement are legally binding on the LEA, Parts 5 and 6 are not and that there is no right of appeal to the SEN Tribunal about these sections.

**8:48** Further suggestions on writing statements can be found in the National Assembly Handbook of Good Practice for Children with SEN.

## **Speech and language therapy**

**8:49** Case law has established that speech and language therapy can be regarded as either educational or non-educational provision, or both, depending upon the health or developmental history of each child. It could therefore appear in either Part 3 or Part 6 of the statement or in both. However, since communication is so fundamental in learning and progression, addressing speech and language impairment should normally be recorded as educational provision unless there are exceptional reasons for not doing so.

**8:50** Prime responsibility for the provision of speech and language therapy services to children rests with the NHS. This applies generally and also to any specification of such services in a statement of special educational needs, whether in Part 3 as educational provision or in Part 6 as non-educational provision, or in both parts. Health authorities are responsible for purchasing therapy services through the contracts they make with providers of health care (NHS Trusts). The NHS provides a professionally managed speech and language therapy service covering pre-school, school-age and adult age groups, which has close links with the other child health services.

**8:51** Where the NHS does not provide speech and language therapy for a child whose statement specifies such therapy as educational provision, ultimate responsibility for ensuring that the provision is made rests with the LEA, unless the child's parents have made appropriate alternative arrangements. Schools, LEAs and the NHS should cooperate closely in meeting the needs of children with communication difficulties.

**8:52** It is important that the nature and extent of provision required for individual children should be examined very carefully and that full consideration is given as to how, and through which linguistic medium, such provision can best be delivered. In some cases, for example, children may need regular and continuing help from a speech therapist, either individually or in a group. In other cases, it may be appropriate for staff at the child's school to deliver a regular and discrete programme of intervention under the guidance and supervision of a speech and language therapist.

**8:53** For some children a language programme that is an integral part of the whole school day is more appropriate. Such language programmes will be delivered by school staff but may require regular monitoring and evaluation by a speech and language therapist. It is good practice for education professionals who have received sufficient and appropriate professional development in the field of speech and language difficulties to support and assist the work of speech and

language therapists in educational settings. Collaborative practice is essential for successful intervention with children and young people with speech and language difficulties. The operational flexibilities introduced under the Health Act 1999 for health services and local authorities will help to promote greater collaboration.

## **The proposed statement**

**8:54** The LEA must draw up a proposed statement, completing all Parts except Part 4. The proposed statement must not contain any details relating to where the proposed special educational provision should be made. The LEA must send the proposed statement and copies of the advice that has been submitted during the assessment to the child's parents; copies of the proposed statement should also be sent to all those who submitted advice.

**8:55** At the same time, the LEA must send the parents a notice which sets out the procedures to be followed, including setting out the arrangements for the choice of school, the parents' right to make representations about the content of the statement, their right to appeal to the SEN Tribunal against the contents of the final statement and the time limits for appeal. The notice must correspond substantially with that set out in Part A of Schedule 1 to the Regulations.

**8:56** When making a statement, LEAs should remember the needs of parents and children whose first language is not English or Welsh. Where children have different linguistic and cultural backgrounds, LEAs should seek advice from bilingual support staff, teachers of English as an additional language, interpreters and translators and other local sources of help as appropriate, to ensure that such parents and children are involved in all aspects of the process.

## **Time limits**

**8:57** On receipt of the proposed statement, parents have a right to state a preference for the maintained school their child should attend and to make representations to, and hold meetings with, the LEA. It must also be explained to parents that they have the right to raise any other issues relating to the body of the statement. The LEA must normally issue the final statement within eight weeks of the issue of the proposed statement. Exceptions to the eight-week time limit are set out in the Education (Special Educational Needs) (Wales) Regulations 2002.

## **Naming a school**

**Parents may express a preference for the maintained school ( but not a PRU or hospital special school) they wish their child to attend, or make representations for a placement in any other school. LEAs must comply with a parental preference unless the school is unsuitable to the child's age, ability, aptitude or special educational needs, or the placement would be incompatible with the efficient education of the other children with whom the child would be educated, or with the efficient use of resources. LEAs must consider parental representations and arrange any meeting(s) with LEA advisers or officers the parents seek, before issuing the final statement.**

**See Schedule 27, Education Act 1996**

**Unless a parent indicates that they do not want their child educated in a mainstream school (whether by expressing a preference or making a representation for a particular school or otherwise) an LEA must ensure that a child is educated in a mainstream school unless that is incompatible with the efficient education of other children.**

**See Section 316, Education Act 1996**

**8:58** An LEA that believes that the education of a particular child in the mainstream would be incompatible with the efficient education of others must consider whether there are any reasonable steps they could take to prevent the child's inclusion from having that effect. In relation to a particular maintained school they must consider the reasonable steps that they or the governing body could take.

**8:59** If an LEA decides that a particular maintained school might be able to make the special educational provision specified in a statement the governing body of that school can only argue against a place on the grounds that the child's education there would be incompatible with the efficient education of others. They must also consider whether there are any reasonable steps they (or the LEA) could take to prevent inclusion from having that effect.

**8:60** Parents may express a preference for any maintained school they wish their child to attend, or make representations for a placement in any other school. LEAs **must** comply with a parental preference in accordance with the provisions of Schedule 27 of the Education Act 1996. LEAs must consider parental representations and arrange any meeting(s) with LEA officers or advisers parents seek, before issuing the final statement. When considering parental representations for a place at a school or institution which is not a maintained school, LEAs must establish that the school or institution proposed can make the special educational provision necessary to meet the child's special educational needs, and the provisions of Section 9 of the Education Act 1996: that is, they must have regard to the parent's wishes, so far as that is compatible with the efficient instruction and training of the child and the avoidance of unreasonable public expenditure.

**8:61** The LEA **must** explain to parents the arrangements for expressing a preference for a particular school under paragraph 3 of Schedule 27 and the LEA's duty to comply with that preference in all but a few cases. Paragraph 4 of the same Schedule gives parents the right to make representations, which the LEA must consider, about the content of the statement; and the right to request meetings to discuss any aspect of the content of the proposed statement, including the advice obtained during the statutory assessment. Parents should be informed that the parent partnership service is able to provide information about schools, explain the way the law operates and provide support for meetings with the LEA. Parents should also be informed about the availability of disagreement resolution services.

**8:62** Where an LEA proposes to issue a statement or amend Part 4 of an existing statement they **must** name the maintained school – mainstream or special – that is preferred by the parents, providing that:

- the school is suitable for the child's age, ability and aptitude and the special educational needs set out in Part 2 of the statement

- the child's attendance is not incompatible with the efficient education of other children in the school, and
- the placement is an efficient use of the LEA's resources.

**8:63** The LEA **must** consult the school preferred by the parent, and where the school is in another LEA's area, that LEA as well. They **must** provide, as part of the consultation, either a copy of the proposed statement and appendices or, where they are proposing to amend Part 4 of an existing statement, either the proposed amended statement or the amendment notice together with a copy of the existing statement, and in either case, the appendices.

**8:64** Where the parent's choice of a particular school cannot be met, the LEA should identify a mainstream school and consult them. Again the proposed statement or proposed amended statement or existing statement and amendment notice and appendices must be sent to the school and the LEA concerned if the school is not maintained by the placing LEA. However, the LEA must name that school unless it is incompatible with the provision of efficient education for other children and there are no reasonable steps that the LEA or school or another Authority could take to prevent the incompatibility.

**8:65** The LEA should consider very carefully a preference stated by parents for a denominational mainstream maintained school and representations made by parents for a denominational non-maintained special school or independent school. Denominational considerations cannot override the requirements of section 316 of the Education Act 1996.

**8:66** If City Technology Colleges, City Colleges for the Technology of the Arts or City Academies are named in a statement no consent for the placement of a child by the National Assembly is required, so long as the pupil falls within the terms generally approved for the school.

**8:67** Schedule 27 of the Education Act 1996 determines whether a parent's preference for a particular maintained school is met. Parents may, of course, express a preference for a maintained special school. If they do so, the LEA no longer have a duty under section 316A to secure a mainstream education for the child. The LEA must comply with a parental preference for a particular maintained special school so long as the conditions in Schedule 27 apply.

**8:68** The LEA should inform parents that all maintained schools must publish information on their policies on special educational needs. Parents should be supported in making choices. Ways of helping parents are discussed in Chapter Two.

**8:69** When LEAs send parents a copy of the proposed statement, they must tell the parents that they have the right to make representations to the LEA in favour of a non-maintained school and that, if they wish to make such representations, they should do so within 15 days of receiving the proposed statement. If the LEA does not agree to the parents' representations, they should inform the parents of their decision before naming any other school in the final statement. Parents will then have the opportunity to express a preference for a particular maintained school under Schedule 27 if they wish to do so.

## Residential Placements

**The LEA must inform the SSD in the area where the child's family resides or the SSD in the area of the residential school**

**See Section 85, Children Act 1989**

**Where a child is looked after and the SSD propose to place the child in an educational setting they shall, as far as is reasonably practicable, consult the appropriate LEA before doing so.**

**See Section 28, Children Act 1989**

**8:70** If it is agreed that a residential school should be named in the statement, the LEA and parent should also agree the arrangements for the child's contact with their family and for any special help, such as transport, which may be needed to maintain home/school contact.

**8:71** Whenever a child is placed in a residential school with the intention that it will be for longer than three months, the LEA must inform either the social services department where the child's family lives or the department in the area of the residential school. It is good practice to inform both SSDs.

**8:72** LEAs may wish to work with social service colleagues to develop placement policies that are consistent across the local authority. Social services departments will, so far as reasonably practicable and consistent with the child's welfare, seek to secure that residential placements are near the child's home.

**8:73** Where SSDs make an unilateral placement out of their own budget for a child with a statement of SEN, they should immediately inform the LEA, especially where the placement is in an independent school.

**8:74** In general LEAs are likely to consider that there is a need for residential provision where there is multi-agency agreement that:

- the child has severe or multiple special educational needs that cannot be met in local day provision
- the child has severe or multiple special educational needs that require a consistent programme both during and after school hours that cannot be provided by parents with support from other agencies
- the child is looked after by the local authority and has complex social and learning needs, and placement is joint-funded with the social services department
- the child has complex medical needs as well as learning needs that cannot be managed in local day provision and the placement is joint-funded with the health authority.

**8:75** If these conditions apply, a multi-agency plan should be put into place that enables tri-partite funding.

**8:76** The LEA and the child's parents may conclude that the child should be placed in an independent school that is not approved by the National Assembly under section 347. In such cases, the LEA must seek the National Assembly's

consent to the placement and should do so before naming the school in the final copy of the statement. The National Assembly aims to make a decision within 15 working days of the date on which a request for consent was sent. Should the National Assembly take more than three weeks, the LEA is not bound by the eight-week time limit governing the issue of the final statement. Nor will the time limit apply if the National Assembly declines to give consent to a proposed placement and a request is made for the National Assembly's consent to a placement at another independent school which is not approved under section 347.

**8:77** Where the LEA decide that the final statement will not name the parents' first choice of school, the LEA should explain that decision in writing to the parents, and **must** also inform the parents of their right of appeal to the SEN Tribunal and the time limits for lodging an appeal, the availability of parent partnership and disagreement resolution services, and the fact that the parent's right of appeal cannot be affected by any disagreement resolution procedure.

**8:78** Visits by parents to the school proposed by the LEA, with an opportunity to discuss their child's special needs with the head teacher, SENCO or any specialist teaching staff, may be helpful. Parents' concerns and disappointments should be taken seriously, and every effort should be made to provide any additional information and advice or to arrange any further visits which will help them reach an informed decision about their child's future.

**8:79** A detailed explanation of the rules that determine the basis on which payments for out-of-authority placements may be made between LEAs in respect of the education of children with statements of special educational needs who are also looked after by the local authority are set out in the National Assembly Guidance on the Education of Children Looked After by Local Authorities.

### **Consultation before naming a maintained school in a statement**

**A local education authority shall, before specifying the name of any maintained school in a statement, consult the governing body of the school, and if the school is maintained by another local education authority, that authority.**

**The LEA must serve a copy of the proposed statement or amended statement, or of the existing statement and the amendment notice to the school(s) whom they are consulting, and if the school is maintained by another local education authority, that authority.**

**See Schedule 27, Education Act 1996**

**8:80** The LEA must consult the governing body of a school before naming it in a statement. If another authority maintains the school, the LEA must also consult that authority. The LEA should expect schools and other LEAs to respond within 15 working days, unless the time period falls within a school holiday that is longer than two weeks. The LEA should consider carefully any representations from governing bodies and other LEAs.

**8:81** If the consultation is the result of a parental preference for a particular school, the LEA should consider any concerns the governing body may have

about meeting the child's special educational needs or about how the child's attendance might impact on the education of other children at the school, or the efficient use of resources. However, the final decision as to whether to name the school falls to the LEA.

**8:82** When the consultation is not as a result of a parental preference the LEA should consider any concerns the governing body may have that the child's attendance might be incompatible with the efficient education of other children at the school and whether the governing body or the LEA can take reasonable steps to prevent that incompatibility. However the final decision as to whether to name the school falls to the LEA.

**8:83** The LEA have a duty to name the parents' preferred maintained school in a statement so long as the conditions in Schedule 27 (set out in paragraph 8.62) are met. For example, the LEA should not name a maintained school in a statement if the school is selective and the child does not meet the criteria for selection. The governing body of the school cannot refuse to admit a child solely because they have special educational needs.

**8:84** If the LEA, after representations from the parents, decide to name an independent or non-maintained special school, they will, of course, as part of the process of agreeing the placement, consult the school.

**8:85** The LEA should also consider carefully whether the admission of the child to a maintained mainstream school would take the school over the number fixed as the number of intended admissions for the year, which must not be less than the 'standard number' or 'approved admissions number', in other words, whether the school is already nominally full. Admitting children over this number might be incompatible with the provision of efficient education or the efficient use of resources. In some schools an additional child in a class would be incompatible with the efficient education of others as there might not be enough physical space, especially if all the children require particular aids that take up a lot of space. LEAs must also comply with the class size legislation in infant classes (see paragraphs 1:33 – 38). The LEA should consider these points very carefully in cases where they are not the admissions authority for the school in question: that is, another authority maintains it or it is a voluntary aided or a foundation school.

**8:86** Admissions over the number fixed for admissions in special schools may be more complex because the admissions number is expressed as a global total rather than per class or year group. In such cases, the LEA should consider the number in the class to which the child would be admitted rather than the total for the whole school.

### **Transport costs for children with statements**

**8:87** The parents' preferred school might be further away from the child's home than another school that can meet the child's special educational needs. In such a case, it might be open to the LEA to name the nearer school if that would be compatible with the efficient use of the LEA's resources. It would also be open to the LEA to name the school preferred by the child's parents on condition that the parents agreed to meet all or part of the transport costs.

**8:88** The school named in a child's statement must be capable of meeting the child's special educational needs. LEAs should not, therefore, promulgate general transport policies that seek to limit the schools for which parents of children with statements may express a preference if free transport is to be provided.

**8:89** Transport should only be recorded in the statement in Part 6 in exceptional cases where the child has particular transport needs. In most cases LEAs will have clear general policies relating to transport for children with special educational needs that should be made available to parents. Such policies would need to set out those transport arrangements which are over and above those required by section 509 of the Education Act 1996.

**8:90** Where the LEA names a residential provision at some distance from the parents' home and the local authority, the LEA should provide transport or travel assistance; the latter might be reimbursement of public transport costs, petrol costs or provision of a travel pass.

### **Education otherwise than at school**

**8:91** Children with statements may be educated otherwise than at school because:

(a) the LEA has made other arrangements

or

(b) parents have made suitable arrangements of their own.

**8:92** Section 319 of the Education Act 1996 empowers the LEA to arrange for some or all of a child's special educational provision to be made otherwise than at school. Such arrangements would include education in a pupil referral unit, home tuition or education that reflected key stage 4 flexibilities.

**8:93** Section 320 enables the LEA to make arrangements for a child with a statement to attend an institution outside England and Wales: where they do so, the LEA may contribute to or pay the fees of the institution and the travelling and other expenses of the child and any person, including a parent, who might accompany the child.

**8:94** The LEA should consider carefully any representations made by parents in favour of their child attending an establishment outside England and Wales. If the LEA consider that some or all of a child's special educational provision should be made otherwise than at school, including attending an institution outside England and Wales, they may specify those arrangements in Part 4 of the statement.

**8:95** Section 7 of the Education Act 1996 recognises parents' right to choose to educate their child at home. Such arrangements are described as 'education otherwise than at school'. In such cases, if the child has a statement of special educational needs, it remains the LEA's duty to ensure that the child's needs are met. The statement must remain in force and the LEA must ensure that parents can make suitable, provision, including provision for the child's special educational needs. If the parent's arrangements are suitable the LEA are relieved of their duty to arrange the provision specified in the statement. If, however, the parents' attempt to educate the child at home results in provision which falls short of

meeting the child's needs, then the parents are not making 'suitable arrangements' and the LEA could not conclude that they were absolved of their responsibility to arrange the provision in the statement. Even if the LEA is satisfied, the LEA remains under a duty to maintain the child's statement and to review it annually, following the procedures set out in Chapter Nine.

**8:96** In such situations section 324 (4A) of the Education Act 1996 does not require the **name** of a school to be specified in Part 4 of the statement. Part 4 should state the type of school the LEA consider appropriate but go on to say that: "*parents have made their own arrangements under section 7 of the Education Act 1996.*" The statement can also specify any provision that the LEA have agreed to make under section 319 to help parents provide suitable education for their child at home.

### **Children educated at parents' expense**

**8:97** Parents may choose to place a child with a statement in an independent school (whether or not approved under section 347) or a non-maintained special school at their own expense. If parents choose to make such provision for their child, the LEA must be satisfied that the school is able to make special educational provision for the child that meets their special educational needs before they are relieved of their duty to arrange provision in an appropriate school. The LEA is not required to specify the name of a school in Part 4 of the child's statement where they are satisfied that the child's parents have made suitable arrangements but they **must**, in those circumstances, state the type of provision. Parents should not be treated as having made suitable arrangements if the arrangements do not include a realistic possibility of funding those arrangements for a reasonable period of time. The LEA are, whether or not a school is named in the statement, still under a duty to maintain the child's statement and to review it annually, following the procedures set out in Chapter Nine.

### **Children placed by social services departments or the Courts**

**8:98** It is good practice for local authorities in their role as corporate parent to ensure that the social services departments work with LEAs, so that any educational provision they make meets the child's needs as appropriately as is possible in their particular circumstances.

**8:99** Where a child is 'looked after' by the local authority, and the child's education is arranged by social services, the LEA should consider whether the local authority, as the child's parent, has made suitable provision under section 324(5)(a). If so, the LEA may refrain from arranging the provision specified in the statement. Section 324(4A) of the Education Act 1996 does not require the name of a school to be specified in Part 4 of the statement but the LEA **must**, in such cases, name the **type** of provision.

**8:100** Where a child is 'looked after' by the local authority and placed in a community home with education or other children's home that provides education, or with an independent fostering agency providing education, then the LEA may conclude that suitable arrangements have been made and the LEA is relieved of their duty to arrange the provision specified in the statement.

**8:101** In such situations Part 4 should state the type of school the LEA consider appropriate but go on to say that: "*parents have made their own arrangements under section 7 of the Education Act 1996.*"

**8:102** LEAs should always ensure that they are involved in any plans to change the child's placement so that appropriate special educational provision can be arranged as necessary once the child leaves their current placement.

**8:103** Where a young person with a statement is detained under a court order (for example in secure accommodation) or an order of recall by the Secretary of State, the LEA is no longer responsible for them and is under no duty to maintain the statement (see section 562 of the Education Act 1996). Authorities should, however, make plans that will enable a young person's statement to be recommenced on the first day of their reintegration into their community.

**8:104** Although there is no statutory duty to meet the special educational needs of these young people, LEAs may provide them with educational facilities and should ensure that the institutions receive information about their inmates' special educational needs including a copy of any statement and the last annual review report. The institutions should endeavour to make appropriate educational provision. As with children who are 'looked after', the LEA should be involved in the young person's exit plan.

### **Parental representations about the proposed statement**

**8:105** If parents have been fully consulted throughout the process they are more likely to consider that the proposed statement presents a positive and accurate appraisal of their child's special educational needs and that the provision proposed represents an appropriate response to those needs. The LEA should, however, using the Notice to Parents Part A of Schedule 1 of the Education (Special Educational Needs) (Wales) Regulations 2002, inform parents that:

- a. they may within 15 days make representations to the LEA, and require that a meeting be arranged with an officer of the LEA to discuss the contents of the statement
- b. within 15 days of meeting the officer, the parents may make further representations or, if they disagree with any part of the assessment, require further meetings to be arranged with appropriate people within the LEA to discuss the advice given
- c. within a final 15 days from the last meeting the parents can make further comments to the LEA.

**8:106** Every effort should be made to ensure that parents are happy with the proposed statement and that they understand the background to the proposals made for their child and consider that their wishes and feelings have been given full and sensitive consideration. Similar effort should be made to ensure that, so far as possible, the child's views are reflected in the proposed statement and that the child understands the reasons for the proposals.

**8:107** At any meetings arising from the proposed statement, LEA officers should give parents sufficient time and information in order to discuss their anxieties with the Named LEA Officer, and seek as far as possible to come to a mutual

agreement. Some parents may find assessment very stressful and need additional personal support. LEAs should inform parents that friends or relatives, or members of the parent partnership service (see Chapter Two) may accompany them. The LEA may wish to refer parents to professionals in health or other services for clarification of any relevant aspect of the provision proposed which is giving cause for concern.

### **The final statement**

**8:108** The LEA **must** send a copy of the final statement to the child's parents and give written notice of their rights of appeal to the Tribunal and the time limits for lodging an appeal, the availability of parent partnership and disagreement resolution services, and the fact that the parent's right of appeal cannot be affected by any disagreement resolution procedure. Parents may appeal against the description in the statement of the child's special educational needs, the special educational provision in the statement, and the school named, or if no school is named, that fact.

**8:109** When changes are suggested to the proposed statement and agreed by the LEA and the parents, the final statement should be issued immediately. LEAs must arrange the special educational provision, and may arrange any non-educational provision specified in the statement, from the date on which the statement is made. Every effort should be made to ensure that parents understand the significance of any changes and the nature of the provision that is proposed to meet the child's special educational needs. Where, despite opportunities to discuss the situation with an officer of the LEA and any relevant professionals, the parents are unwilling to accept other changes to the proposed statement or the LEA refuses the parents' suggestions for changes to the proposed statement, the LEA may nonetheless proceed to issue the final statement. The LEA must, however, inform the parents of their right to appeal to the SEN Tribunal with regard to the provision specified in the statement, including the named school, and the procedures to be followed if they wish to do so.

**8:110** Recourse to the SEN Tribunal may be stressful for parents and time-consuming for the LEA concerned. To minimise appeals to the Tribunal, LEAs should ensure that parents have the fullest possible access to information and support during the statutory assessment process and that they are fully involved in contributing to their child's statement. Partnership with parents is fully discussed in Chapter Two.

### **Keeping, disclosure and transfer of statements**

**8:111** A statement must not be disclosed without the consent of the child's parents or, where the child is over eighteen, except for statutory purposes or in the interests of the child. Statutory purposes include disclosure to the SEN Tribunal when parents appeal, and to the National Assembly if parents make a complaint to the Assembly under the 1996 Act; disclosure on the order of any court or for the purpose of any criminal proceedings; disclosure for the purposes of investigations of maladministration under the Local Government Act 1974; disclosure to enable any authority to perform duties resulting from the Disabled Persons (Services, Consultation and Representation) Act 1986, or from the Children Act 1989 relating to safeguarding and promoting the welfare of children;

and disclosure to Estyn inspection teams as part of their inspections of schools and LEAs.

**8:112** The interests of the child include the provision of information to the child's school and teachers. It is important that teachers working closely with the child should have full knowledge of the child's statement, as should Careers Wales. LEAs may also give access to the statement to persons engaged in research on special educational needs on the condition that the researchers do not publish anything derived from, or contained in, the statement which would identify the child or parents concerned. School governing bodies should have access to a child's statement commensurate with their duties towards pupils with special educational needs and should always bear in mind the need to maintain confidentiality about the child in question. Disclosure in the interests of the child also includes disclosure to any agencies other than the LEA who may be referred to in the statement as making educational or non-educational provision.

**8:113** When the responsibility for a child with special educational needs changes from the LEA maintaining the statement (the old authority) to another LEA (the new authority), the old authority must transfer the statement to the new authority. They may also transfer any opinion they have received under the Disabled Persons (Services, Consultation and Representation) Act 1986 that the child is disabled. Upon the transfer of the statement, the new authority becomes responsible for maintaining the statement and for providing the special educational provision specified in the statement.

**8:114** The duty to maintain the child at the school specified in Part 4 of the statement therefore also transfers to the new authority. The new authority may place the child temporarily at a school other than that specified in Part 4 where appropriate and sensible to do so – for example, where the distance between the child's new home and the school would be too great – prior to the statement being amended in accordance with the statutory procedures. Otherwise, the new LEA may not decline to pay the fees or otherwise maintain the child at an independent or non-maintained special school or a boarding school named in a statement unless and until they have formally amended the statement.

**8:115** The new authority may, on the transfer of the statement, bring forward the arrangements for the review of the statement, and may conduct a new assessment regardless of when the previous assessment took place. The new authority must tell the parents, within six weeks of the date of transfer, when they will review the statement and whether they propose to make an assessment under section 323. The old authority and the child's school should alert parents to the educational implications of their proposed move and both the old authority and the new authority should be ready to discuss those implications with parents. Where a child with a statement moves to England, Northern Ireland or Scotland, the LEA should send a copy of the child's statement to the new authority or board.

### **Maintenance of a statement**

**8:116** When a statement is made, the LEA should tell the 'responsible person' in a maintained school – see paragraph 1:19 – and the head teacher in all other schools and in early education settings. They must then ensure that the child's special educational needs are made known to all those who will teach them.

Schools should ensure that teachers monitor and informally review the child's progress during the course of the year. Teachers should use both the normal curriculum and pastoral monitoring arrangements for all pupils as well writing IEPs, as appropriate. It is most important that, if a child's special educational needs change, a review is held as soon as possible to ensure that the provision specified in the statement is still appropriate.

### **Ceasing to maintain the statement**

**8:117** There should be no assumption that, once the LEA has made a statement, they should maintain that statement until they are no longer responsible for the young person. Statements should be maintained only when necessary. But a decision to cease to maintain a statement should be made only after careful consideration by the LEA of all the circumstances and after close consultation with parents.

**8:118** The LEA may cease to maintain a statement for a child only if they believe that it is no longer necessary to maintain it. The LEA should consider the results of the recent annual reviews, whether the objectives of the statement have been achieved, and whether the child's needs could be met in future within the resources of mainstream schools within the area without the need for continuing LEA oversight. The LEA should always, therefore, consider whether, notwithstanding the achievement of some, or even all, of the objectives in the statement, the child's progress will be halted or reversed if the special educational provision specified in the statement or modified provision which justified the maintenance of a statement were not made.

**8:119** The LEA may consider whether the following apply when considering if it is necessary to maintain a statement:

- a. have the objectives of the statement have been met
- b. can the child's needs be met in future within the resources of a mainstream school
- c. do the child's special educational needs no longer significantly impede access to the National Curriculum
- d. does the child no longer require daily adult supervision or substantial adaptation of teaching materials to access the curriculum fully
- e. can the child cope with everyday social interaction at school
- f. has the child no significant self-help difficulties that require more provision than is normally available within the school.

**8:120** Once an LEA make a decision to cease to maintain a statement, they must write to the child's parents to give notice of their decision, and explain the parents' right of appeal to the SEN Tribunal and the time limits for lodging the appeal, the availability of parent partnership and disagreement resolution services, and the fact that the parent's right of appeal cannot be affected by any disagreement resolution procedure. The LEA must always explain the reasons for their decision and also ensure that parents have copies of any evidence that led to that decision. It is good practice to offer a meeting to explain the rationale for

the decision and to discuss the provision the child will receive once the statement has ceased. Such a meeting should be held before the statement and its provisions actually cease. Provision **must** be maintained if parents lodge an appeal to the SEN Tribunal until after the Tribunal makes a decision.

**8:121** A statement will generally remain in force until and unless the LEA ceases to maintain it. A statement will lapse automatically when a young person moves into further or higher education. Therefore, if the young person, the parents, the LEA and the further education institution are all in agreement about the young person's transfer, there is no need to formally cease the statement since the young person will cease to be a pupil for whom the LEA is responsible after leaving school, and so the statement will lapse.

**8:122** A young person may leave school at age 16 plus to seek employment or training; again, there is no need to formally cease to maintain the statement since the young person would cease to be a pupil for whom the LEA is responsible once they leave school. By contrast, where there is agreement all-round that the pupil should stay at school post-16, and the LEA or other LEAs, have appropriate school provision, the LEA should normally continue to maintain the statement.

**8:123** Where parents want their child to remain at school post 16, but the LEA considers that the young person's special educational needs would be better met in a further education institution, the LEA cannot know whether the child still requires a statement until it has contacted the FE institution in question and confirmed that it is both able to meet the young person's needs and has offered a place. The LEA should satisfy itself on both counts before taking formal steps to cease to maintain the young person's statement. At that time, the LEA must also notify the parents of their right of appeal to the Tribunal and the time limits for lodging the appeal, the availability of parent partnership and disagreement resolution services, and the fact that the parent's right of appeal cannot be affected by any disagreement resolution procedure. It is not sufficient for LEAs to have a general expectation that an FE institution should be able to meet a young person's needs.

**8:124** Where the young person's present school does not cater for children aged 16 plus, the LEA should consider whether to amend the statement to name another school or cease the statement if an appropriate FE course is identified. The LEA should formally propose to amend the statement to name the alternative school or formally propose to cease the statement. In both cases the LEA must also notify the parents of their right to appeal to the Tribunal and the time limits for lodging the appeal.

### **Amending an existing statement**

**8:125** The LEA can only amend a statement in compliance with an order from the SEN Tribunal, as directed by the National Assembly, or in accordance with Schedule 27.

**8:126** Where the LEA propose to amend a statement following an annual review or at any other time, whether to change the name of the school in Part 4 or for any other reason, they must write to the child's parents informing them of that proposal and of the parents' right to make representations about the statement

and the amendments within 15 days of the receipt of that proposal and to request a meeting with an officer of the LEA.

**8:127** For amendments following a re-assessment, the procedure is the same as when making a new statement as set out earlier in this chapter.

**8:128** For amendments following a review, other than after a reassessment, LEAs must send the parents an amendment notice that sets out the details of their proposed amendments. The amendment notice should be appended to the Notice to Parents. They must explain the reasons for the proposal and ensure that the parents have copies of any evidence that prompted the proposal. Where a proposal to amend the statement arises from the annual review, the parents should have already received copies of the review report and the school's recommendations.

**8:129** The LEA must consider any representations made by the parents before deciding whether and how to amend the statement. If the authority concludes that an amendment should be made, they must make that amendment within eight weeks of sending the amendment notice to the parents. If the LEA decides not to go ahead with the amendment, they should write to the parents explaining why, again within eight weeks of the original letter setting out the proposal to make an amendment.

**8:130** When a child transfers from one school to another, either because they have moved to a different address but remain in the same authority or because of a phase change of school (for example from a primary to a secondary school), Part 4 of the statement will always need amending. Information and recommendations from an annual review meeting may also indicate the need for alterations to an existing statement. Where the proposal involves amending Part 4 of the statement the parents have the rights to express a preference or make representations described in paragraph 8:58.

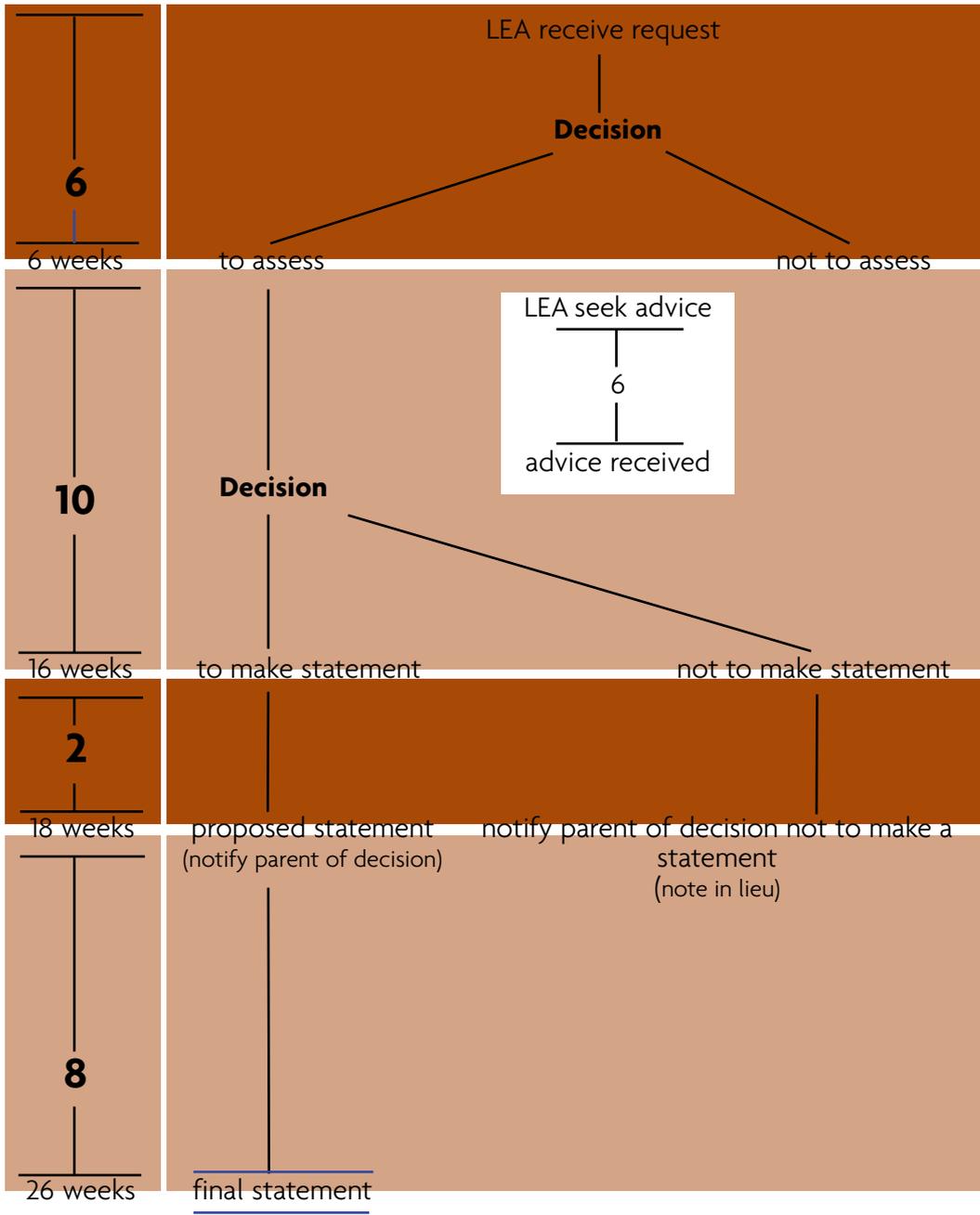
**8:131** When the statement is amended a new document must be issued which clearly states that it is an Amended Final Statement and the date on which it was amended, as well as the date of the original statement. Additional advice, such as the minutes of an annual review meeting and accompanying reports, that contributed to the decision to amend the statement, should be appended to the amended statement in the same way as the advice received during the statutory assessment. The amended statement should also make clear which parts of the statement have been amended, so that parents and professionals can clearly see and understand the changes.

**8:132** When a child is moving to a new school, particularly at phase transfer, the statement should be amended to name in Part 4 both the current placement and the new placement, stating an appropriate start date for the latter. This will make sure that parents, children and the receiving school can plan well in advance of transfer, and entitle parents to appeal to the SEN Tribunal in good time if they disagree with the named school. At phase transfers, except from early education settings to the primary phase, the statement must be amended no later than 15th February in the year of transfer. The amended statement should specify the current school attended by the child (if any) and the new school, indicating the date on which the child will move there.

**8:133** When the amended statement is issued parents must be informed of their right of appeal to the Tribunal against Parts 2, 3 and 4 of the statement and the time limits within which they should appeal, the availability of parent partnership and disagreement resolution services, and the fact that the parent's right of appeal cannot be affected by any disagreement resolution procedure.

**Summary**

**8:134** The time limit for making assessments and statements are as follows:



## 9 Annual Review

### Introduction

**9:1** All statements (other than those for children under two) must be reviewed at least annually. The annual review of a pupil's statement ensures that once a year the parents, the pupil, the LEA, the school<sup>54</sup>, and all the professionals involved, consider both the progress the pupil has made over the previous 12 months and whether any amendments need to be made to the description of the pupil's needs or to the special educational provision specified in the statement. It is a way of monitoring and evaluating the continued effectiveness and appropriateness of the statement. LEAs must ensure that such a review is carried out within 12 months of either making the statement or of the previous review.

**9:2** When a statement is amended following an annual review, the date of the next annual review should continue to be determined according to the date on which the statement was made rather than the date on which it was amended. When a second or subsequent statutory assessment results in a new statement then the review should be within 12 months of the date of the new statement.

**9:3** Although LEAs have the power to arrange a review of a statement at any time during the year, LEAs should aim to secure the agreement of the school and the child's parents before exercising that power. The timing of annual reviews should reflect the circumstances of the child and the action that may flow from the review, for example a move to secondary school. Timing should also reflect the circumstances of the child's school. Particularly in the case of special schools it may not be reasonable to review all statements at the same time. LEAs should seek to agree a reasonable spread of annual review dates with the school. Parents should always be informed at the earliest possible opportunity..

**9:4** The purpose of an annual review is to integrate a variety of perspectives on a child's progress, to ensure that they are achieving the desired outcomes and, if necessary, to amend the statement to reflect newly identified needs and provision. In some cases, the LEA will conclude that the statement's objectives have been achieved and that they should cease to maintain the statement. The annual review should focus on what the child has achieved as well as on any difficulties that need to be resolved. The annual review held in year 9 is particularly significant in preparing for the pupil's transition to the further education sector, work-based training, higher education and adult life.

**9:5** While statements must be reviewed annually, schools and, as appropriate, the LEA should, during the course of the year monitor the child's progress towards the targets set out shortly after the statement was first made or at the last annual review. The IEP will normally be the vehicle for this process, alongside the usual school arrangements for monitoring the progress of all pupils.

**9:6** Where children are 'looked after' by the local authority or are 'in need' consideration should be given to holding the SEN review and a 'looked after' or 'child in need' review at the same time. It will rarely be advisable for all the same people to attend the whole review but such joint arrangements are likely to contribute to effective collaboration.

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<sup>54</sup> In this chapter 'schools' also refers to early years education settings..

## Purpose of the Annual Review

**9:7** The annual review should aim:

- i. to assess the child's progress towards meeting the objectives specified in the statement and to collate and record information that the school and other professionals can use in planning their support for the child
- ii. in the case of the first annual review, to assess the child's progress towards meeting the targets agreed and recorded in the IEP following the making of the statement; and in the case of all other reviews to assess progress towards the targets in the IEP set at the previous annual review
- iii. to review the special provision made for the child, including the appropriateness of any special equipment provided, in the context of the National Curriculum and associated assessment and reporting arrangements. Where appropriate, the school should consider providing a profile of the child's current levels of attainment in basic literacy, numeracy and life skills, and a summary of progress achieved in other areas of the curriculum, including the National Curriculum. Where the statement involves a modification or disapplication of the National Curriculum, the school should indicate what special arrangements have been made for the child
- iv. to consider the continuing appropriateness of the statement in the light of the child's performance during the previous year, and any additional special educational needs which may have become apparent in that time, and thus to consider whether to cease to maintain the statement or whether to make any amendments, including any further modifications or disapplication of the National Curriculum, and
- v. if the statement is to be maintained, to set new targets for the coming year: progress towards those targets can be considered at the next annual review.

**9:8** The child's circumstances may sometimes change during the year. They may have received education, for example, in a hospital school or in a pupil referral unit or through home tuition. Continuous assessment during the past year may have identified or confirmed a significant medical or social problem or learning difficulty that will require different or continuing support and intervention. The nature and outcomes of such provision should be addressed in the annual review and reports should be obtained from all those who have been involved in the child's educational progress during the preceding year.

## The annual review for children at school

**9:9** This section applies to all annual reviews except the review in year 9, which are described in detail at 9.45. The procedures to be followed are set out in Regulations and apply to all schools<sup>55</sup> and settings where a child with a statement is on roll.

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<sup>55</sup> For the purpose of an annual review 'schools' refers to all schools, including maintained nursery schools.

**9.10** The LEA **must** write to all head teachers no less than one term in advance with a list of all pupils on roll at their school who will require an annual review. The LEA must inform the head teacher of the date by which a report of the annual review meeting for each child is required. LEAs may consider it helpful to provide similar amalgamated lists to the designated medical officer and to the social services department and, for secondary stage pupils, Careers Wales.

**9.11** Such early information would help careers, health and social service professionals plan attendance at those reviews that they consider necessary.

### **Seeking written advice**

**9:12** The head teacher initiates the review process upon receipt of the termly list of annual reviews from the LEA. The head teacher can delegate to a teacher at the school any or all of the duties and functions prescribed to him or her in the Regulations. When such duties and functions are delegated, the head teacher should inform the LEA, the parents and anyone else involved in the review of the name of the teacher in question. The head teacher should ensure that the designated teacher is aware of all relevant representatives of the health services and the social services department, Careers Wales and any individual professionals who should be invited to the review.

**9:13** In preparing for the review meeting, the head teacher must request written advice from:

- the child's parents
- those specified by the authority
- and anyone else the head teacher considers appropriate

The head teacher must also

- circulate a copy of all advice received to all those invited to the review meeting at least two weeks before the date of the meeting, inviting additional comments, including comments from those unable to attend the review meeting.

**9:14** The written advice will be used as the basis for the discussion at the review meeting and sent, with the report of the meeting and the head teacher's recommendations, to the LEA for their consideration. The advice should relate to:

- the child's progress towards meeting the objectives in the statement and the short-term targets established to help meet the objectives;
- the application of the National Curriculum;
- the continued appropriateness of the statement;
- any Transition Plan (see paragraph 9.51);
- any amendments to the statement; or
- whether the statement should cease to be maintained.

**9:15** Health authorities and social services departments are required by section 322(1) of the Act to respond to the head teacher's request for written advice, unless the exceptions in section 321(2) and (3) apply. Other people from whom the head teacher requests written advice under Regulation 21(4) should also respond, although they are not under a statutory duty to do so. Head teachers must seek advice in accordance with Regulation 21(4). They are not required to seek advice on every one of the above points from **all** the persons they ask for advice, except the parents. Instead, head teachers can ask for specific advice from specific persons, or can ask for advice generally. The evidence received, and comments on that evidence, together with an account of the review meeting, form the basis of the review report.

### **The annual review meeting**

**9:16** Before producing the review report, the head teacher must convene a meeting. The head teacher must invite:

- the child's parents (if the child is looked after by the local authority, under a care order, the child's social worker and the residential care worker or foster parents, should be invited as appropriate)
- a relevant teacher, who may be the child's class teacher or form/year tutor, the SENCO, or some other person responsible for the provision of education for the child, the choice resting with the head teacher
- a representative of the placing LEA
- any person who the LEA considers appropriate and specify in a notice
- any other person the head teacher considers appropriate.

**9:17** Copies of all the advice received must be circulated at least two weeks before the meeting.

**9:18** Parents should be encouraged to contribute their views to the annual review process, to attend the review meeting, and to contribute to discussions about any proposals for new targets for the child's progress. Parents may need support in attending reviews and help in writing advice, especially for a first review. Ways in which parents might be helped with this are referred to in Chapter Two. Where a parent does not respond to invitations to contribute in writing to the review, or to attend a review meeting, this should be recorded in the review report together with any reasons given.

**9:19** Wherever possible, pupils should also be actively involved in the review process, attending all or part of the review meeting. They should be encouraged to give their views on their progress during the previous year; discuss any difficulties encountered; and share their hopes and aspirations for the future. Ways of helping the pupil to participate are discussed in Chapter Three.

**9:20** Where appropriate, the LEA should tell the head teacher that representatives of the health services or social services department or other professionals closely involved with the child must be invited to contribute to the review and attend the meeting. The head teacher may also invite such representatives and professionals as they see fit, even if not asked to do so by the

LEA. In some cases the professionals may themselves think it appropriate to attend, or consider it necessary to provide a report on their involvement with the child over the past year.

**9:21** It is unlikely that all relevant professionals will be able to attend all review meetings. It may therefore be helpful when inviting them to indicate the priority attached to their attendance. Liaison between the respective parties, over time and well in advance of the meeting, should help professionals decide whether it is appropriate to attend and also give them adequate prior notice. Schools should explain to parents that professionals will not always be able to attend all review meetings and that, if beyond the review meeting, parents wish to discuss matters of concern in the professionals' reports, they should first approach the Named LEA Officer. This should be explained to the parents at the review meeting.

**9:22** Where a child is placed outside the area of the LEA responsible for the statement, a representative of the placing LEA should where possible attend the review meeting. Parents should be strongly encouraged to attend. In particular circumstances LEAs may consider it appropriate to help parents with travel arrangements.

**9:23** When a child with special educational needs or their family has English or Welsh as an additional language, the timescale for planning the annual review should take into account the need to:

- translate any relevant documentation into the family's mother tongue;
- ensure that interpreters are available to the child and family both in the preparatory stages to the review meeting and at the review meeting itself;
- ensure that any professionals from the child's community have similar interpretation and translation facilities in order that they may contribute as fully as possible to the review process;
- ensure that, if possible, a bilingual support teacher or teacher of English or Welsh as an additional language is available to the child and family.

**9:24** Where a child or their family have a communication difficulty because of a sensory or physical impairment, similar attention should be given to ensuring that information is available to them and to representation at the review meeting through interpreters. Where alternative communication systems are used, the timing of the meeting should take into account the need to provide sufficient time for translation. Where a child or family has a visual impairment, similar attention should be given to the provision of all relevant information in Braille, large print or on tape as appropriate.

### **Children looked after by the local authority**

**9:25** Where the child with a statement is subject to a care order, the local authority designated by the order will share parental responsibilities with the child's birth parents. Such a child might be looked after by the local authority in a residential or foster placement, or might live at home. The extent of the contribution to be made by the child's parents, the residential care worker or

foster parents and the social worker should be determined by the head teacher in consultation with the social services department. If both the parents and the residential care worker or foster parents will be attending a review meeting, head teachers should consider involving the social worker in preparing parents or carers for the review and providing support before and after the review itself. Where the local authority accommodates the child with a statement the child's parents retain parental responsibility for that child.

**9:26** The head teacher should also consult the social services department if a child with a statement is currently subject to care proceedings. It may be advisable to invite the Children's Guardian (see Glossary) to the review.

**9:27** Where a child is subject to a care order, an education supervision order, or is accommodated by the local authority, the local authority social services department must include information on the arrangements for the education of the child within the Child Care Plan, as required under the Arrangements for Placement of Children Regulations made under the Children Act 1989. The social services department must review the Child Care Plan and involve the child or young person in that process. The Child Care Plan must incorporate a Personal Education Plan that sets out the educational arrangements for the child and should include information from the statement, the annual review and IEPs. LEAs and social services departments may therefore wish to link the annual review of the statement with a review of the Child Care Plan in order to provide a holistic approach to meeting the child's needs.<sup>56</sup>

### **Conduct of the review meeting**

**9:28** The review meeting will normally take place in the child's school and should be chaired by the head teacher or the teacher to whom responsibility for the school-based elements of the review has been delegated. Further advice on annual reviews is included in the National Assembly Handbook of Good Practice for Children with SEN.

**9:29** Those present at the meeting should, in the light of the issues raised in the reports as set out at 9:14, consider:

- does the statement remain appropriate?
- are any amendments to the statement required?
- should the LEA continue to maintain the statement, or should the LEA be recommended to cease to maintain the statement, and the child's needs be met appropriately through School Action Plus?
- any new targets to be set to meet the objectives set out in the statement
- whether any additions or amendments should be made to an existing Transition Plan.

**9:30** A review meeting may make recommendations on any of the matters listed above. Amendments to a statement are likely to be recommended if:

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<sup>56</sup> More detailed advice can be found in the National Assembly Guidance on the Education of Children Looked After by Local Authorities

- i. significant needs recorded on the statement are no longer present;
- ii. the provision should be amended to meet the child's changing needs and the targets specified at the review meeting or,
- iii. the child should change schools, either at the point of transfer between school phases, for example infant to junior or primary to secondary, or when a child's needs would more appropriately be met in a different school, for example by inclusion in the mainstream.

**9:31** The review meeting and the review report may also recommend that the LEA should cease to maintain the statement. If all those present cannot agree to the recommendations, the head teacher should ensure that this disagreement is recorded, together with the reasons for it.

### **Submitting the report**

**9:32** Following the annual review meeting the head teacher must prepare a report, and submit it to the LEA no later than 10 school days after the annual review meeting or the end of that school term, whichever is the earlier. The report should summarise the outcome of the review meeting, setting out the head teacher's assessment of the main issues discussed at the meeting; and the head teacher's recommendations about any educational targets for the coming year; and any other steps that ought to be taken including whether the statement should be amended or maintained. The head teacher should always give reasons for the recommendations. The head teacher must send a copy of the report to all concerned in the review, including the parents and any relevant professionals.

**9:33** The review report should be written, signed and dated as quickly as possible. The head teacher should make sure that the recommendations are clear and that any relevant professional reports are appended to the review report so that the LEA is able to review the statement and make decisions without any unnecessary delay. LEAs may find it helpful to offer guidance as to the form that reports should follow, or provide a common format for review reports for all schools in the area.

### **The role of the LEA after receiving the review report**

**9:34** The LEA concludes the review process by considering the report of the review meeting and the recommendations prepared by the head teacher. The LEA must then review the statement, in the light of the report and recommendations and any other information they consider relevant. The LEA must decide whether to accept the head teacher's recommendations. In particular the LEA must decide whether to amend or cease to maintain the statement. Within one week of making a decision, the LEA must send a copy of its decision on these matters to the school, the child's parents and anyone else they think appropriate.

**9:35** Where the decision is to amend the statement, the LEA should start the process of amendment without delay.

## **The annual review for children with statements whose education is otherwise than at school**

**9:36** When a child is educated otherwise than at school, the general timetable and arrangements for the annual review will remain the same as for children in schools. However, in these circumstances the LEA will convene the review meeting and the range of professionals involved may be wider and in some respects different from those involved in a school-based review.<sup>57</sup> The child's parents must always be invited to the review meeting. The review meeting should take place in the most appropriate location, such as LEA offices, a hospital or the parents' home, and should normally be chaired by the LEA.

**9:37** The views of the designated medical officer for SEN should be sought where a child is educated otherwise than at school because of major difficulties relating to health or a disability. In such circumstances the attendance of professional advisers from the relevant child health services will be particularly important and the LEA should arrange the timing of the review meeting to ensure that they can, as far as possible, participate.

**9:38** When a child has been excluded from school, the views of the child's former teacher and any other professionals who know the child should be sought. Parents of children who have been excluded from school may need sensitive and positive encouragement to contribute to all stages of the review.

### **A change of school**

**9:39** All concerned with the child should give careful thought to transfer between schools and particularly phase transfers. Advance planning is essential. Detailed guidance on phase transfers is set out in Chapter Five.

**9:40** Under paragraph 8 of schedule 27 of the Education Act 1996, parents have the right to request the LEA to substitute the name of a maintained mainstream or special school for the name of the school in Part 4 of the statement. The LEA must comply with the request:

- So long as it is made more than 12 months after:
- a similar request
- the issue of a final copy of the statement
- the issue of an amendment to the statement
- the conclusion of an appeal to the SEN Tribunal over the provision specified in the statement,
- whichever is the latest, and unless:

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<sup>57</sup> In some cases the LEA may consider it appropriate to delegate organisation of the annual review process to the teacher in charge of the pupil referral unit or home tuition service.

**(a) the school is unsuitable to the child's age, ability or aptitude or to his/her special educational needs, or**

**(b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he/she would be educated or the efficient use of resources.**

**See Schedule 27, Education Act 1996**

**9:41** If these conditions apply, the LEA must amend the statement to name the school proposed by the parents and inform the parents, within eight weeks of receiving the request. Before naming the school, the LEA must first consult the governing body, and, if another authority maintains the school, it must consult that LEA. In either case they must give the school a copy of the existing statement. The eight week time limit allows for this consultation, although the school or LEA consulted should respond within three weeks unless the consultation occurs during a school holiday period that is longer than two weeks. The LEA may specify in the statement the date on which the child is to start attending the new school. That date might coincide with the start of a new term, or give sufficient time for the school to make necessary preparations for the child's arrival.

**9:42** If the LEA conclude that they cannot name the school proposed by the parents, they **must** tell the parents, in writing, of their right to appeal to the SEN Tribunal against the decision and the time limits that apply. The LEA must also explain why they have turned down the request, and must also tell the parents of their right to appeal to the Tribunal against the decision and set out the time limits for appeal, the availability of parent partnership and disagreement resolution services, and the fact that the parent's right of appeal is not affected by any disagreement resolution procedure.

**9:43** This letter should also be sent to the parents within eight weeks of their initial request. If the child is due to transfer between phases, the LEA must send an amendment notice as set out in the Schedule to the Regulations. The LEA must explain that the parents may express a preference for a maintained school and make representations for an independent or non-maintained special school. As set out in 8.132 the LEA must allow for a new school to be named by 15th February in the year of transfer. The amended statement should name the current provision in Part 4 of the amended final statement and the new school with the date from which the new placement becomes operative.

### **Interim Reviews**

**9:44** Where a school identifies a pupil with a statement of special educational needs who is at serious risk of disaffection or exclusion, an interim or early review should be called. It will then be possible to consider the pupil's changing needs and recommend amendments to the statement, as an alternative the pupil being excluded.<sup>58</sup>

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58 See also National Assembly for Wales Circular 3/99 'Pupil Support and Social Inclusion'.

## The Annual Review in Year 9 and Subsequent Years

**9:45** The aim of the annual review in year 9 and subsequent years is to:

- a. review the young person's statement;
- b. draw up and subsequently review the Transition Plan

**9:46** The annual review of the statement held in year 9 should involve the agencies that may play a major role in the young person's life during the post-school years and **must** involve Careers Wales.

**9:47** The annual review of the statement must consider all the same issues as at all other reviews, and the report to the LEA should be in the same format. LEAs must also complete the review process in the same way as for all other annual reviews and within the same timescale.

**9:48** The LEA must send Careers Wales a list of all pupils in their area who will require a year 9 review prior to the end of Year 8. The list must include all pupils whether or not they are educated in a school and indicate any schools that the children specified attend. This information will help Careers Wales to plan attendance at Year 9 reviews.

**9:49** The head teacher, the local education authority, and Careers Wales should facilitate the transfer of relevant information to ensure that young people receive any necessary specialist help or support during their continuing education and vocational or occupational training after leaving school. Relevant information should be transferred to the appropriate office of the National Council for Education and Training for Wales as appropriate. For young people with specific disabilities, the role of social services departments will be of particular importance and local authorities have specific duties relating to other legislation. Further detailed information can be found in the National Assembly Handbook of Good Practice for Children with SEN.

**9:50** The annual review procedure described above applies with the following additions:

- **the head teacher must invite Careers Wales to the review meeting, to enable all options for continuing education, careers and occupational training to be given serious consideration**
- **the head teacher should ensure that other providers, such as health authorities and trusts, are aware of the annual review and the procedures to be followed in year 9**
- **the head teacher must invite the social services department to attend the review so that any parallel assessments under the Disabled Persons (Services, Consultation and Representations) Act 1986; the NHS and Community Care Act 1990; and the Chronically Sick and Disabled Persons Act 1970 can contribute to and draw information from the review process**
- **the head teacher must ensure that a Transition Plan is drawn up in consultation with Careers Wales**

- **the head teacher must circulate both the annual review report and the Transition Plan to the young person's parents, all those attending the review meeting and any others the head teacher considers appropriate**

## **The Transition Plan**

**9:51** The annual review in year 9 and any subsequent annual reviews until the young person leaves school **must** include drawing up and subsequent review of the **Transition Plan**. The Transition Plan should draw together information from a range of individuals within and beyond school in order to plan coherently for the young person's transition to adult life. Transition Plans when first drawn up in year 9 are not simply about post-school arrangements, they should also plan for on-going school provision, under the statement of special educational needs as overseen by the LEA.

**9:52** All those involved in the process should adhere to the principles that underpin the nature of transition and transition planning and the requirements of the young people and their families. Transition planning should address the comprehensive needs of the child.

**9:53** The Head teacher is responsible for overseeing and co-ordinating the delivery of the transition plan. Careers Wales will have the lead role in ensuring the delivery of the elements of the Transition Plan that relate to the young person's transition into further learning or employment.

**9:54** All agencies should recognise their respective funding responsibilities as early into the transition planning stage as possible. Joint planning arrangements should identify elements of planned provision and the agencies responsible for funding each of those elements, particularly where there is a recommendation for post-16 provision in a residential establishment. Further detailed advice on the principles and processes of transition planning are set out in the National Assembly Handbook of Good Practice for Children with SEN.

## **Student involvement in decision-making during transition**

**9:55** The views of young people themselves should be sought and recorded wherever possible in any assessment, reassessment or review from year 9 onwards. Representatives from Careers Wales, student counsellors, advocates or advisers, teachers and other school staff, social workers or peer support may be needed to support the young person in this process. Chapter Three of this Code and the National Assembly Handbook of Good Practice for Children with SEN consider in detail the ways in which young people can be helped to participate fully in the this process.

## **The role of Careers Wales**

**9:56** Careers Wales is responsible for ensuring the delivery of the elements of the Transition Plan that relate to the young person's transition into further learning or employment. The representative from Careers Wales should ensure that they are aware of all young people with SEN in year 8. A representative from Careers Wales **must** be invited to the year 9 annual review meeting and **must make every effort to attend** where the young person is considered mature

enough to be able to start discussing further learning and career options. Occasions may arise where Careers Wales is unable to provide a representative. In these circumstances Careers Wales should offer the young person and his parents/guardians a careers guidance interview prior to the Year 9 annual review. The resulting notes of the interview should be made available at the Year 9 annual review meeting to inform development of the Transition Plan. Representatives from Careers Wales should be invited to all subsequent annual reviews, and are expected to attend where appropriate.

**9:57** Year 9 review meetings are the start of a process for longer-term decision-making. Vocational guidance provided by the school or the representative from Careers Wales should include information on further education and training courses and take fully into account the wishes and feelings of the young person concerned. Careers Wales should assist the young person and their parents to identify the most appropriate post-16 provision, provide counselling and support, and have continuing oversight of, and information on, the young person's choice of provision. Where a need for specialist college provision is identified, Careers Wales has lead responsibility for preparing and submitting applications for placements to NCETW. These processes will need to be carried out in partnership with NCETW, the LEA's SEN officers and those professionals who know the young person well.

### **Involvement of social services departments**

**9:58** LEAs **must** seek information from social services departments under section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986, as to whether a young person with a statement under Part IV of the Education Act 1996 is disabled (and may require services from the local authority when leaving school).

**9:59** Multi-agency input at year 9 is important for **all** young people with SEN. Under the Children Act 1989 and the NHS and Community Care Act 1990, social services departments are required to arrange a multi-disciplinary assessment and provide care plans for children and adults with significant special needs - which may include the provision of further education facilities. Social services departments should ensure that a social worker attends the year 9 annual review meeting and contributes to the formation of the Transition Plan where a young person is subject to a care order, accommodated by the local authority or is a 'child in need'.

### **Involvement of health services**

**9:60** Health professionals involved in the management and care of the young person should provide advice towards transition plans in writing and, wherever possible, should attend the annual review meeting in year 9. They should advise on the services that are likely to be required and should discuss arrangements for transfer to adult secondary health care services with the young person, their parents and their GP. They should facilitate any referrals and transfers of records, which may be necessary, subject to the informed consent of the young person and parents, and should liaise with Careers Wales as appropriate.

## **Annual reviews from year 10**

**9:61** The school remains responsible for convening annual review meetings until such time as the pupil leaves school. Some pupils with statements of special educational needs will remain in school after the age of 16. LEAs remain responsible for such pupils until they are 19. There will be occasions where the natural completion of an academic year or completion of a particular course would take a pupil with a statement beyond their 19th birthday. Where pupils remain on a school roll beyond 16 LEAs are required in those situations to maintain statements until the end of the academic year in which the 19th birthday falls

**9:62** Whatever the intended future destination of the young person, the annual review has an additional significance as the young person approaches the age of 16. A representative from Careers Wales should attend the review in year 11 in order to ensure that the Transition Plan is updated appropriately. In the young person's final year of school, the National Assembly has a separate duty under section 140 of the Learning and Skills Act 2000, for ensuring that an assessment of their needs on leaving school is undertaken and the provision identified. This duty will be carried out by Careers Wales as part of its contract with the National Assembly. Every effort should be made to link the Year 11 annual review of the statement and to consider the Transition Plan together with this assessment so that a holistic approach is maintained. Where post 16 provision has already been identified it is good practice for the head teacher to invite a representative from the provider to the review meeting.

## **Transfer of information**

**9:63** Local Authorities should seek the agreement of students and parents to the transfer of information (including statements) from school to the continuing education sector or other provision, and explain the importance of such information and the desirability of the transfer.

**9:64** The Head teacher should ensure that where a young person has a statement of special educational needs, a copy of the statement together with a copy of the most recent annual review, and the Transition Plan, is passed to the social services department and any post 16 provider that the young person will be attending, in sufficient time for appropriate support to be put in place. Where a decision might need to be taken about the placement of a student in a specialist college, a copy of the Transition Plan should be sent to the appropriate office of NCETW.

## **Students without statements but with special educational needs**

**9:65** In some instances, a student approaching the age of 16 may have special educational needs which do not call for a statement, but which are likely to require some support if they go on to further education or training. To ensure that these students are able to make decisions, and to facilitate their successful transition, it is important that they have appropriate help and guidance. This might include the provision of school/college link courses or work placements and should involve the different local agencies concerned.

**9:66** Careers Wales provides careers advice and guidance for people of all ages. It has a particular focus on supporting disadvantaged young people or those likely to underachieve, including those with SEN but without statements. Careers Wales should provide schools with information which will help these students make successful transitions to post-school education, training or work, including details of local and national voluntary organisations. Schools should consult as appropriate with Careers Wales and other services to ensure that detailed information is transferred to post-16 providers with the young person's consent and in sufficient time for the post-16 provider to put necessary support in place.

**9:67** Schools, in consultation with the representative from Careers Wales, may wish to draw up Transition Plans to support this process, whether the young person remains at school post 16 or moves to alternative provision. There will need to be close collaboration with LEA staff and other professionals involved with the young person, so as to provide an appropriate Transition Plan. To aid this process it would be good practice for the head teacher, in consultation with the representative from Careers Wales, to provide health and social service professionals with a list of pupils at year 9 with SEN who do not have statements but for whom the school considers it appropriate for a transition plan to be prepared.

### **Children subject to a care order or accommodated by a local authority**

**9:68** Under the provisions of the Children (Leaving Care) Act 2001 every eligible young person looked after by a local authority on their 16th birthday, including those with SEN, will have a pathway plan. This plan will build on the care and personal education plans, mapping out a pathway to independence, including education, training and employment. The local authority will also be required to appoint a personal adviser for each of these young people. The adviser must work with the young person, Careers Wales and others to devise the pathway plan and ensure its implementation.

**9:69** It is important that the personal adviser ensures that the young person is fully aware of the local authority's responsibilities towards them and to agree with the social services department, other agencies and the young person the services to be delivered. Where a young person has been looked after in a foster care or residential placement or attended a residential school outside their own local authority area, the young person's personal adviser for the responsible authority together with the LEA should seek to ensure liaison between all relevant LEAs, and social services departments. It will also be essential that the local Careers Wales company (i.e. local to the residential placement) maintains close contact with the young person's home Careers Service. Careers Wales should ensure that relevant records relating to information, advice and guidance given on learning and career opportunities are made available to the home Careers Service. The responsible authority is the local authority that is looking after the young person or, in the case of a young person who has left care, the authority that last looked after them.

## 10. Working in Partnership with Other Agencies

### Introduction

**10:1** Meeting the special educational needs of individual children requires flexible working on the part of statutory agencies. They need to communicate and agree policies and protocols that ensure that there is a 'seamless' service. Working supportively and in partnership with parents and the children and young people themselves will ensure that everyone involved understands the responses of the professionals concerned, and lead to a better quality of provision.

**10:2** Maintained schools must publish information that includes the school's arrangements for working in partnership with LEA support services, health and social services, Careers Wales and any relevant local and national voluntary organisations. Teachers have a great deal of expertise in identifying and meeting the needs of their pupils. External support services can however play an important part in helping schools identify, assess and make provision for pupils with special educational needs.

### Principles of Inter Agency Working for Children with SEN

**10:3** All services for children with SEN should focus on identifying and addressing the needs of children and enabling them to improve their situation through:

- early identification
- continual engagement with the child and parents
- focused intervention
- dissemination of effective approaches and techniques

**10:4** The objective should be to provide integrated, high quality, holistic support focused on the needs of the child. Such provision should be based on a shared perspective and should build wherever possible on mutual understanding and agreement. Services should adopt a flexible child-centred approach to service delivery to ensure that the changing needs and priorities of the child and parent<sup>59</sup> can be met at any given time.

**10:5** All agencies should recognise the need for effective collaboration of services involved with the child and parents. Consultative responsibilities and effective communication systems at management and practitioner levels should be clearly identified. Developments in organisational structures and working practices should reflect this principle. Joint planning arrangements should:

- take account of good practice;
- take account of Memoranda of Understanding and protocols;
- identify elements of planned provision and the agencies responsible for funding each of those elements;
- ensure consultation with all relevant services;

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<sup>59</sup> 'parent' is used throughout the text to refer to all those with parental responsibility

- agree priorities
- publicise decisions to parents and professionals;
- regularly review policies and objectives.

## **LEA Support Services**

**10:6** LEA support services can provide advice to teachers (e.g. on teaching techniques and strategies, classroom management, and curriculum materials); support for curriculum development; direct teaching or practical support for class teachers; part-time specialist help, or access to learning support assistance.

**10:7** Such services include specialist teachers of pupils with hearing, visual, and speech and language impairments, teachers providing more general learning and behaviour support services, counsellors, educational psychologists, and advisers or teachers with knowledge of information technology for children with special educational needs. Curriculum support and advisory services can also be a resource for advice on specific subject-related teaching techniques and strategies and curriculum materials.

**10:8** The educational psychologist can be a very important resource for the school. The psychologist's knowledge of the school and its context is key. Through regular consultation with schools educational psychology services can provide help in clarifying problems and devising problem solving strategies; in carrying out specialised assessments, including techniques in managing behaviour, and evaluating individual pupil progress. In addition to working with individual children, the educational psychologist can work with groups of pupils or teachers and learning support assistants at the classroom or whole school level, for example assisting schools with the development of SEN and behaviour policies, helping to develop knowledge and skills for school staff and assisting with projects to raise achievement and promote inclusion.

**10:9** The LEA may offer a range of services through the Education Welfare Service. This service works closely with schools, parents and children to try to resolve attendance issues for all children. This may involve arranging home and school visits to discuss the situation. They will try to find out the reason why a child is not attending school, and take steps to try to get the child back into school. There will be, of course, times when the child should not return to mainstream school, whether or not they have identified special educational needs. In such cases the LEA might arrange alternative provision, such as home education with a Local Authority tutor, or an admission to a Pupil Referral Unit that helps pupils who have problems with settling in school.

**10:10** Education Welfare Services may undertake other functions. These can range from checking on child employment legislation, to dealing with the education provision of those children who have been excluded from school, or working with the school when a child is at serious risk of disaffection or exclusion, and in some case, exercising overall responsibility for child protection issues. Education welfare officers may also offer support and counselling to help children who are not in school. They may also talk to other Local Authority Departments and agencies, like social services, local Housing and Health Departments, and the Education Psychology Service about the needs of a particular child.

**10:11** Schools should work in close partnership with the providers of all these services. The SENCO in particular should be aware of the LEA's policy for the provision of support services and how the school can gain access to them. LEAs should provide full information to all schools in their area about the range of services locally available and how they can be secured. Whether or not funding for particular support services is delegated to schools, it may be helpful for schools and LEAs to draw up service level agreements for such services, specifying the scope, quality and duration of the service to be provided. When schools enter into contracts with private or voluntary sector providers, they should satisfy themselves of the qualifications and experience of the specialists involved, that the service represents good value for money and carry out appropriate police checks.

**10:12** The SENCO and class teachers need to be very clear why they need external assistance. If there is an identifiable lack of expertise within the range that can be offered by the staff in a mainstream school, then the school should consider seeking external advice. Even when outside specialists are involved the SENCO still has prime responsibility for coordinating the special educational provision made for the child and for any decisions taken over this.

**10:13** It is most likely that schools will consult specialists when they take action on behalf of a child through School Action Plus. But the involvement of specialists need not be limited to children receiving provision through School Action Plus. Outside specialists can play an important part in the very early identification of special educational needs and in advising schools on effective provision designed to prevent the development of more significant needs. They can act as consultants and be a source for in-service advice on learning and behaviour management strategies for all teachers.

## **Careers Wales**

**10:14** Careers Wales has an important role to play in providing guidance and support to young people with SEN from age 13 until they are placed into suitable learning, training or employment. The services to be delivered by Careers Wales companies to this client group should be clearly set out in their formal Partnership Agreements with schools and in statements of arrangements with other relevant bodies eg social services, LEAs and National Council for Education and Training for Wales . These should be regularly reviewed to ensure that the needs of these young people are fully served. Further details of the role of Careers Wales in the transition planning process are outlined in Chapter 9.

## **National Council for Education and Training for Wales**

**10:15** The Learning and Skills Act 2000 places specific duties on the National Council for Education and Training for Wales to secure proper provision of facilities for the education and training of young people with learning difficulties and/or disabilities. The Council has a key role to play in working with schools, LEAs, Careers Wales and other local organisations to ensure the participation and progression of young people with SEN. The Council also has a key role in the transition process for young people with SEN from year 9 onwards, through its relationship with Careers Wales.

## Health Services

**Health Authorities and LEAs must comply with a request from a social services department for assistance in providing services for children in need, so long as the request is compatible with their duties and does not unduly prejudice the discharge of any of their functions.**

**See section 27, Children Act 1989**

**Health authorities, subject to the reasonableness of the request in the light of the resources available to them, must comply with a request for help from an LEA in connection with children with special educational needs, unless they consider that the help is not necessary for the exercise of the LEA's functions.**

**See section 322, Education Act 1996**

**(1) ...where it appears to a local authority that any person for whom they may provide or arrange for the provision of community care services may be in need of any such services, the authority shall carry out an assessment of his needs for those services, and having regard to the results of that assessment, shall decide whether his needs call for the provision of any such services.**

**(2) If at any time during the assessment of the needs of any person under subsection 1(a) above it appears to such a local authority that he is a disabled person, the authority – (a) shall proceed to make such a decision as to the services he requires as is mentioned in section 4 of the Disabled Persons (Services, Consultation and Representation) Act 1986 without his requesting them to do so under that section; and (b) shall inform him that they will be doing so and of his rights under that Act.**

**See section 47, National Health Service and Community Care Act 1990**

The responsibility for funding all non-educational aspects of a placement (eg transport, accommodation etc) transferred from the DSS to the relevant local authority under the NHS and Community Care Act 1990. Further education should be part of an individual's care plan and agreed by all the agencies responsible for that care.

Welsh Office Guidance – June 1997

**10:16** Schools' first point of contact with health services will usually be through school health services, or similar, which deliver health advisory and support services to schools. These health professionals will usually be able to advise the school but, if a problem is confirmed, should also tell the medical officer designated to work with children with special educational needs that the school has sought advice about a child. Healthcare professionals such as speech and language therapists, occupational therapists and physiotherapists, as well as doctors and the school nurse, also provide advice and support for children with special educational needs.

**10:17** Early education settings should seek advice from their local Early Years Development and Childcare Partnership about partnership arrangements in place with other agencies.

**10:18** Health Authorities and Trusts **must** give parents the names of voluntary organisations that might be of assistance when they consider that a child under five may have special educational needs.<sup>60</sup> Under the Children Act 1989, local authority social services departments **must** produce written information on the full range of services they provide in their area for children 'in need' and may include details of information provided by others and take reasonable steps to ensure that such information reaches those who might require it.

**10:19** When schools are concerned about the educational progress of a child they should, with the informed consent and involvement of the child's parents, consult the school health service or child's general practitioner about whether a medical condition may be contributing to the child's difficulties in school. Where the child's difficulties are sufficient to make it likely that they will be the subject of statutory assessment, the health professional consulted should, with parental consent, notify and provide relevant medical information to the medical officer designated by the Health Authority to work with the LEA on behalf of children with SEN and to lead the Health Authority's contribution to the statutory assessment process.

**10:20** The Health Authority (HA) should agree with Local Health Groups and NHS Trusts how the local health authority contribution to statutory assessment and to meeting the medical needs of children with special educational needs will be discharged. NHS Trusts may employ the staff from whom the HA will need to designate a medical officer for special educational needs.

**10:21** The designated medical officer for special educational needs will need to have a strategic and operational role in co-ordinating activity across HAs, NHS Trusts, Local Health Groups and GPs.

**10:22** At the strategic level, the designated medical officer should check that the Health Authority have arrangements for ensuring that the Trusts and GPs providing child health services:

- **inform LEAs of children who they think may have special educational needs**
- **provide medical advice to LEAs for the assessment of children within the statutory time limits**
- **consider, with LEAs and with regard to available resources, the health services' contribution to the non-educational provision to be specified in a statement**

**10:23** At the operational level, the designated medical officer should:

- **ensure that all schools have a contact (usually the school health service) for seeking medical advice on children who may have special educational needs**

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<sup>60</sup> Section 332, Education Act 1996.

- **provide a resource to other health service staff - for example, GPs and therapists - who require assistance in preparing reports on the medical history and health needs of children for schools and LEAs**
- **co-ordinate the health services' advice for a statutory assessment and, frequently, participate in multi-agency meetings on assessments and making statements**
- **co-ordinate the provision to be made by the health services for a child with special educational needs when, as may be the case with therapy and nursing services, either a HA or Local Health Group may be responsible for the purchasing of these services**
- **consider how the new powers in the Health Act 1999, allowing pooling of budgets and integration of commissioning or providing functions between the NHS and Local Authorities, can best support services for children with SEN.**

## **Child and Adolescent Mental Health Services (CAMHS)<sup>61</sup>**

**10:24** Children with SEN are more likely to have mental health problems than those without, emphasising the importance of close links between education services and CAMHS. Many children with mental health problems, but by no means all, may also be recognised as children with emotional and behavioural difficulties.

**10:25** The spectrum of mental health problems is wide, with origins in a complex mixture of social, educational, physical and mental factors. The National Assembly's CAMHS Strategy stresses the role of teachers, school nurses, other school staff and health visitors, amongst others, who are often the first or 'Tier 1', contact for children and adolescents requiring help. The Strategy recognises that those within the Tier 1 group require training, consultation and support from the first line of individual specialist CAMHS professionals, or 'Tier 2'. Children with SEN and severe mental health problems will require referral to specialist CAMHS for assessment and treatment. Joint initiatives between schools, LEAs, health services and the voluntary sector can facilitate co-operative relationships between education and child health services, ensuring that specialist CAMHS and pupil support staff, including educational psychology services, work in close partnership.

## **Social Services**

**Social services departments must comply with a request for help from an LEA in connection with children with special educational needs, unless they consider that the help is not necessary for the exercise of the LEA's functions and so long as the request is compatible with their duties and does not unduly prejudice the discharge of any their functions.**

**See section 322, Education Act 1996**

Social Services departments have a duty under Section 2(1)(c) of the Chronically Sick and Disabled Person's Act 1970 to make arrangements for assisting a disabled person who is ordinarily resident in their area in taking advantage of educational

<sup>61</sup> In September 2001 the Minister for Health and Social Services formally launched the CAMHS strategy "Everyone's Business"

facilities available to him/her (even where provision is made outside that local authority's area if they are satisfied that it is necessary in order to meet that person's needs. Such assistance might, in appropriate cases, include the funding by the local authority of personal care required to enable the student in question to pursue his/her studies. It is of course, for the authority to decide, in each case, what the individual's needs are and how they are to be met.

See Welsh Office Circular 36/93

**(1) ...where it appears to a local authority that any person for whom they may provide or arrange for the provision of community care services may be in need of any such services, the authority shall carry out an assessment of his needs for those services, and having regard to the results of that assessment, shall decide whether his needs call for the provision of any such services.**

**(2) If at any time during the assessment of the needs of any person under subsection 1(a) above it appears to such a local authority that he is a disabled person, the authority – (a) shall proceed to make such a decision as to the services he requires as is mentioned in section 4 of the Disabled Persons (Services, Consultation and Representation) Act 1986 without his requesting them to do so under that section; and (b) shall inform him that they will be doing so and of his rights under that Act.**

#### **National Health Service and Community Care Act 1990, section 47**

The responsibility for funding all non-educational aspects of a placement (eg transport, accommodation etc) transferred from the DSS to the relevant local authority under the NHS and Community Care Act 1990. Further education should be part of an individual's care plan and agreed by all the agencies responsible for that care.

Welsh Office Guidance – June 1997

**10:26** Social services departments should designate an officer or officers who are responsible for working with schools and LEAs on behalf of children with special educational needs and to whom schools and LEAs should refer for advice. If the designated officer has early information about a child, the social services department will be able to react quickly, and within the statutory time limits, to any later request from the LEA for advice in the making of a statutory assessment. Social services departments should ensure that all schools in the area know the name of, and how to contact, a designated social services officer who has responsibilities for special educational needs.

**10:27** At the strategic level, the designated officer for social services should check that the social service departments has arrangements to:

- **inform LEAs of children who they think may have special educational needs**
- **provide social services advice to LEAs for the assessment of children within the statutory time limits**
- **consider, with LEAs and with regard to available resources, the social services' contribution to the non-educational provision to be specified in a statement**

**10:28** At the operational level, the designated officer should:

- **ensure that all schools have a contact for seeking social work advice on children who may have special educational needs**
- **provide a resource to social workers who require assistance in preparing reports for SEN statutory assessment**
- **co-ordinate the social services' advice for a statutory assessment**
- **participate in multi-agency meetings on assessments and making statements.**

## **Children in need**

**It is the general duty of every local authority:**

- **to safeguard and promote the welfare of children within their area who are in need;**

**and**

- **so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.**

**See section 17(1), Children Act 1989**

**10:29** Under section 17 of the Children Act 1989, the local authority social services department has a duty to safeguard and promote the welfare of children in their area, who are 'in need'.

**10:30** While a child with special education needs will not necessarily be 'in need' as defined in the Children Act 1989, that Act allows an integrated approach to the educational, health and welfare needs of children with special educational needs who are 'in need'.

**10:31** LEAs must co-operate with social services departments if a child is 'in need' (section 27 of the Children Act 1989) or is suffering or at risk of suffering significant harm (section 47 of the Children Act 1989), although this would not automatically mean a child had special education needs.

**10:32** At the same time as the LEA is carrying out a statutory assessment under section 323 of the Education Act 1996, a Social Services Department may decide to undertake a child in need assessment under section 17 of the Children Act 1989 to ascertain whether social services help may benefit the child and family. This assessment will be undertaken in accordance with the National Assembly 'Framework for the Assessment of Children in Need and their Families' (2001) to which teachers and other educational professionals will be expected to contribute.

**10:33** In addition, Social Services Departments are required (under Schedule 1 of the Children Act 1989) to provide information on services for children in need and their families. This information should be available to schools. They should also make available to the LEA all relevant information of planning processes or data

collection (such as the Register of Children with Disabilities, the Children's Services Plan or the Community Care Plan). Social services should also ensure that information is provided about direct payments under the Carers and Disabled Children Act 2000.

### **Looked after children**

**10:34** Every child who is 'looked after' by a local authority must have a Care Plan, whether they are accommodated or on a care order and regardless of placement. The Care Plan sets out the long-term objectives for the child and the arrangements for achieving those objectives. The overall Care Plan will incorporate the Personal Education Plan which must include information on the special educational arrangements made for the child and will involve parents, carers and the child in forward planning.

### **The Voluntary Sector**

**10:35** Voluntary agencies and groups have an important role to play in meeting the needs of pupils with special educational needs. They provide services and in some cases offer their own provision. It is essential that schools and local authorities seek to work actively in partnership with the voluntary sector to meet pupils' needs. LEAs and schools should demonstrate a willingness to work with voluntary agencies and groups and value the contribution they can make. Local authorities also need to help join up the different local partners in order to maximise the benefit this can have for pupils.

### **Providing information**

**10:36** The LEA should give schools, social services departments, health authorities and local voluntary agencies full information on the LEA's statutory assessment arrangements and procedures. LEAs and social services departments and health authorities should agree the procedures to be followed when the LEA notify a social services department or health authority of their proposal to assess a child's special educational needs.

## Glossary

These definitions relate to terms used in the Code. In the case of terms defined in legislation, the definitions given here are simplified and the full legal definitions can be found in the legislation referred to.

**ACCAC:** Qualifications, Curriculum and Assessment Authority for Wales. The purpose of the authority is to advance education and training in Wales with a view to promoting quality and coherence.

**Annual review:** the review of a statement of special educational needs which an LEA must make within 12 months of making the statement or, as the case may be, of the previous review.

**British Educational Technology and Communications agency (BECTa):** BECTa is a Government-funded agency that promotes information communications technology and its use to support the Government's efforts to raise standards in curriculum subjects, in the teaching of key skills, in institutional effectiveness, and in the development of lifelong learning. BECTa is responsible for developing the National Grid for Learning (NGfL). Further information on information technology for children with special educational needs may be obtained from BECTa at Milburn Hill Road, Science Park, Coventry, CV4 7JJ. Telephone: 0247 641 6994. Websites: [inclusion.ngfl.gov.uk](http://inclusion.ngfl.gov.uk) and [www.becta.org.uk](http://www.becta.org.uk)

**Careers Wales:** The brand name of the seven companies delivering careers and learning information, advice and guidance to young people and adults under contract to the National Assembly.

**Carer:** for the purpose of this Code, a carer is a person named by a local authority to care for a child for whom the social services department has parental responsibility, i.e. a child who is the subject of a care order and who has been placed in a residential or foster placement. The carer may qualify as a parent for the purposes of the Education Acts because they have care of the child (see the definition of Parent below). If so, they will have a role to play in the consideration of a child's special educational needs.

**Child protection register:** in each area covered by a social services department, a central register must be maintained which lists all the children in the area who are considered to be suffering from, or are likely to suffer, significant harm and for which there is a child protection plan. This is not a register of children who have been abused but of children for whom there are currently unresolved child protection issues.

**Children 'in need':** a child is deemed to be 'in need' if:

- they are unlikely to achieve and maintain, or do not have the opportunity to achieve or maintain a reasonable standard of health or development without provision made by the local authority; or
- their health and development are likely to be significantly impaired, or further impaired, without provision made by the local authority; or
- they are disabled. (Section 17(10))Children Act 1989).

**Children's Guardian:** Children's guardians are appointed by the court under section 41 of the Children Act 1989 as part of care and related proceedings to safeguard the welfare of the child.

**City Academies:** CAs were introduced in 2000 as publicly funded independent schools with private or voluntary sector sponsors intended to replace existing secondary schools or provide new secondary school places in disadvantaged urban areas. The legal basis for City Academies is set out in sections 482, 483 and 483A of the Education Act 1996 (as amended by the Learning and Skills Act 2000).

**City Technology Colleges:** CTCs are independent all-ability, non fee-paying schools for pupils aged 11-18. Their purpose is to offer pupils of all abilities in urban areas across England the opportunity to study successfully a curriculum geared, with the help of private sector sponsors, towards the world of work. CTCs are also encouraged to innovate in the development, management and delivery of the curriculum.

**Desirable Outcomes:** Desirable Outcomes for Children's Learning before Compulsory School Age identify six areas of learning and experience and desirable outcomes withing them, for children of pre-compulsory school age.

**Disagreement Arrangements:** All LEAs must provide arrangements to help prevent or resolve disagreements between parents, whose children have special educational needs, and the LEA or a school. They must include an independent element. They are designed to bring together the different parties in an informal way to seek to resolve the disagreement through discussion. Using these arrangements is voluntary and does not in any way affect a parents right to appeal to the SEN Tribunal.

**Disapplication:** removal or lifting of a programme of study, attainment target, assessment, or any other component of the National Curriculum, or any combination of these including entire subjects or the entire National Curriculum through relevant regulations. (See also Modification, below.)

**Early education practitioners:** all the adults who work with children in early education settings, whatever their qualifications.

**Early education settings:** providers in receipt of government funding to deliver early education including – maintained mainstream and special schools, maintained nursery schools, independent schools, non-maintained special schools, local authority daycare providers such as day nurseries and family centres, other registered daycare providers such as pre-schools, playgroups and private day nurseries, local authority Portage schemes and accredited childminders working as part of an approved National Childminding Association network.

**Early learning goals:** expectations in each of the six areas of learning for most children to reach by the end of the foundation stage.

**Early Years Action:** when the early education practitioner who works day-to-day with the child or the SENCO identify that a child has special educational needs together they provide interventions that are additional to or different from those provided as part of the setting's usual curriculum offer and strategies. An IEP will usually be devised.

**Early Years Action Plus:** when the early education practitioner who works day-to-day with the child and the SENCO are provided with advice or support from outside specialists, so that alternative interventions additional or different strategies to those provided for the child through Early Years Action can be put in place. A new IEP will usually be devised.

**Early Years Development and Childcare Partnerships:** Every LEA is required to establish an early years development partnership to work with them in reviewing the sufficiency of nursery education and preparing early years development plans.

**Education supervision order:** an order that LEAs, under section 36 of the Children Act 1989, can apply for a child of statutory school age who is not being properly educated to be put under the supervision of the LEA, with the intention of ensuring that he or she receives efficient full-time education suited to his or her age, aptitude, ability and any special educational needs, and that sufficient support, advice and guidance are provided to the parents.

**Education Welfare Officer:** person employed by an LEA to help parents and LEAs meet their respective statutory obligations in relation to school attendance. In some LEAs Education Welfare Officers are known as Education Social Workers.

**Estyn:** Estyn's aim is to raise standards and quality in education and training in Wales through inspection and advice, in support of the vision and strategic direction set out by the National Assembly.

**Foundation stage:** the foundation stage begins when children reach the age of three. Many children attend an early education setting soon after their third birthday. The foundation stage continues until the end of the reception year and is consistent with the National Curriculum. It prepares children for learning in year 1, when programmes of study for key stage 1 are taught.

**Graduated approach:** a model of action and intervention in schools and early education settings to help children who have special educational needs. The approach recognises that there is a continuum of special educational needs and that, where necessary, increasing specialist expertise should be brought to bear on the difficulties that a child may be experiencing.

**Group Education Plan:** where pupils in the same group, class or subject lesson have common targets and hence, common strategies a group learning plan can be drawn up rather than IEPs for each child.

**Independent Parental Supporter:** a person to whom all parents should have access, if they so wish. The Independent Parental Supporter must be someone who can support parents for example by attending meetings, encouraging parental participation, and helping the parent understand the SEN framework. Independent means someone independent of the decision making process that determines the type and level of support for a child with special educational needs. Independent Parental Supporters will often be someone from a voluntary organisation, a parent partnership service, another parent or a friend.

**Independent school:** a school that is not maintained by a local education authority and is registered under section 464 of the Education Act 1996. Section 347 of the Education Act 1996 sets out the conditions under which an independent school may be approved by the Secretary of State as being suitable for the admission of children with statements of special educational needs.

**Individual Education Plan:** The IEP is a planning, teaching and reviewing tool. It is a working document for all teaching staff recording key short-term targets and strategies for an individual pupil that are different from or additional to those in place for the rest of the group or class. The interventions will be provided *Early Years Action*, *Early Years Action Plus*, *School Action*, *School Action Plus* and statements of SEN.

**Learning Mentors:** school staff who work with teaching and pastoral staff to assess, identify and work with those pupils who need extra help to overcome barriers to learning inside and outside school. They are a single point of contact for accessing specialist support services, such as the Social Services, Youth Services, Education Welfare Services etc.

**Learning support assistant (LSA):** a widely used job title for an assistant providing in-school support for pupils with special educational needs and/or disabilities. An LSA will normally work with a particular pupil or pupils providing close support to the individual pupil and assistance to those responsible for teaching him/her. Some assistants specialising in SEN may also be known by titles other than LSA as these matters are decided locally. LSAs are one of a group of assistants coming within the broader DfES classification of "teaching assistant".

**Maintained school:** for the purposes of this Code, schools maintained by a local education authority – any community, foundation, voluntary schools, community special and foundation special schools.

**Modification:** amendment or alteration of a programme of study, attainment target, assessment or any other component of the National Curriculum in order to give the child access to that area of the Curriculum (see also **Disapplication** and National Curriculum **Inclusion statement**).

**Named LEA Officer:** the person from the LEA who liaises with parents over all the arrangements relating to statutory assessment and the making of a statement. LEAs must inform parents of the identity of the Named Officer when they issue a notice of a proposal to make a statutory assessment of a child.

**The National Council for Education and Training for Wales:** is the largest National Assembly sponsored public body and has been operational from April 1st 2001. The Council was formed from the merger of the four TECs, the Council of Welsh TECs, and the Further Education Funding Council for Wales and is responsible for the planning and promotion of further education, work based training, adult and continuing education and from April 2002, school sixth forms. The National Council – ELWa is an all Wales organisation and, in order to reflect this, has offices throughout Wales with no formal headquarters.

**National Curriculum:** this sets out a clear, full and statutory entitlement to learning for all pupils, determining what should be taught and setting attainment targets for learning. It also determines how performance will be assessed and reported.

**National Curriculum Inclusion statement:** A detailed overarching statement on Inclusion is included in the National Curriculum; it makes clear the principles schools must follow in their teaching right across the curriculum, to ensure that all pupils have the chance to succeed, whatever their individual needs and the potential barriers to their learning may be. It includes modification of the National Curriculum.

**Note in lieu:** a note that may be issued to the child's parents and school when, following a statutory assessment, the LEA decide not to make a statement. The note should describe the child's special educational needs, explain why the LEA does not think it necessary to make a statement and make recommendations about appropriate provision for the child. All the advice received during the

assessment should be attached to the note sent to the parents and, with their consent, should also be sent to the child's school.

**Non-maintained special school:** schools in England approved by the Secretary of State under section 342 of the Education Act 1996 as special schools which are not maintained by the state but charge fees on a non-profit-making basis. Most non-maintained special schools are run by major charities or charitable trusts.

**Occupational therapy:** Occupational therapy is the use of purposeful activity and play to help a child attain maximum levels of functional performance, thus gaining self-esteem and independence. Motor, sensory, perceptual, social, emotional and self-care skills are assessed. Working with the child, parents and teachers, occupational therapists use therapeutic techniques (advising on equipment and environment adaptations where appropriate) to improve a child's ability to access the physical and learning curriculum.

**Parent** – under section 576 of the Education Act 1996 a parent includes any person who is not a parent of the child but has parental responsibility (see also Parental Responsibility), or who cares for him.

**Parental responsibility:** under section 2 of the Children Act 1989, parental responsibility falls upon:

- all mothers and fathers who were married to each other at the time of the child's birth (including those who have since separated or divorced);
- mothers who were not married to the father at the time of the child's birth; and
- fathers who were not married to the mother at the time of the child's birth, but who have obtained parental responsibility either by agreement with the child's mother or through a court order.

Under section 12 of the Children Act 1989 where a court makes a residence order in favour of any person who is not the parent or guardian of the child that person has parental responsibility for the child while the residence order remains in force.

Under section 33 (3) of the Children Act 1989, while a care order is in force with respect to a child, the social services department (SSD) designated by the order will have parental responsibility for that child, and will have the power (subject to certain provisions) to determine the extent to which a parent or guardian of the child may meet his or her parental responsibility for the child. The SSD cannot have parental responsibility for a child unless that child is the subject of a care order, except for very limited purposes where an emergency protection Order is in force under Section 44 of the Children Act 1989.

Parental responsibility is defined under section 3(1) of the Children Act 1989 as meaning all the duties, rights, powers, responsibilities and authority which parents have with respect to their children and their children's property.

**Parent Partnership Services:** provide advice and information to parents whose children have special educational needs. They provide neutral and factual support on all aspects of the SEN framework to help parents play an active and informed role in their child's education. Although funded by the local education authority they provide a service to parents and are often either run at arms length from the

authority or by a voluntary organisation to ensure parents have confidence in them.

**Portage:** planned, home-based educational support for pre-school children with special educational needs. LEAs usually provide Portage services. The Portage service is named after the town of Portage, Wisconsin, USA. There is an active and extensive network of Portage services in the UK developed by the National Portage Association, which provides a Code of Practice and accredited training.

**Physiotherapy:** physiotherapy is a health care profession that emphasises the use of physical approaches in the promotion, maintenance and restoration of an individual's physical, psychological and social well-being. Following assessment, a treatment plan is developed in partnership with the client/carers; this plan is constantly evaluated to ensure that it is effective and relevant to the individual's changing circumstances and health status.

**Pupil Referral Unit:** any school established and maintained by a local education authority under section 19 (2) of the Education Act 1996 which is specially organised to provide education for pupils who would not otherwise receive suitable education because of illness, exclusion or any other reason. Further details are given in DfEE Circular 11/99 Chapter 6.

**Responsible Person:** the head teacher or the appropriate governor, that is the chairman of the governing body unless the governing body have designated another governor for the purpose. In the case of a nursery school, the responsible person is the head teacher. The LEA must inform the responsible person when they conclude that a pupil at a school has SEN. The responsible person must then ensure that all those who will teach the child know about the child's SEN.

**SCE:** Service Children's Education. The SCE oversees the education of UK service children abroad. It is funded by the Ministry of Defence and operates its own schools as well as providing advice to parents on SCEA and UK schools.

**School Action:** when a class or subject teacher identify that a pupil has special educational needs they provide interventions that are additional to or different from those provided as part of the school's usual differentiated curriculum offer and strategies. An IEP will usually be devised.

**School Action Plus:** when the class or subject teacher and the SENCO are provided with advice or support from outside specialists, so that alternative interventions additional or different strategies to those provided for the pupil through School Action can be put in place. The SENCO usually takes the lead although day-to-day provision continues to be the responsibility of class or subject teacher. A new IEP will usually be devised.

**SEN coordinator (SENCO):** member of staff of a school or early education setting who has responsibility for coordinating SEN provision within that school. In a small school the head teacher or deputy may take on this role. In larger schools there may be an SEN coordinating team.

**SEN Tribunal:** an independent body which has jurisdiction under section 333 of the Education Act 1996 for determining appeals by parents against LEA decisions on assessments and statements. The Tribunal's decision will be binding on both parties to the appeal.

**Special school:** a school which is specially organised to make special educational provision for pupils with special educational needs. Special schools maintained by the LEA comprise of community special schools and foundation special schools, and non maintained special schools are approved by the Secretary of State under section 342 of the Education Act 1996.

**Speech and language therapy:** Speech and language therapy is a health care profession, the role and aim of which is to enable adults and children with speech, language and communication difficulties (and associated difficulties with eating and swallowing) to reach their maximum communication potential and achieve independence in all aspects of life.

**Temporary Disapplication:** A maintained school must provide access to the National Curriculum for all pupils on the school's register including those being taught temporarily at home, in a hospital school or in a pupil referral unit. Where it is impossible or inappropriate to offer these pupils the full National Curriculum, aspects may be disapplied through a general direction or a special direction if a statement is being considered or amended. Head teachers have considerable discretion over directions for temporary disapplication but should only consider a direction where pupils' present circumstances or conduct mean that they cannot fully participate and benefit from the National Curriculum. Disapplication should be limited to those aspects of the National Curriculum that are inappropriate for the pupil.

**Transition Plan:** a plan devised following the year 9 annual review and updated at subsequent annual reviews. The purpose of the plan is to draw together information from a range of individuals within and beyond the school, in order to plan coherently for the young person's transition to adult life.

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