

my child in school



Understanding Annual Reviews

a practical guide to
parents' legal rights



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Important notes

- The information in this booklet is based on the laws of England.
- This booklet covers statements of special educational needs for children over 2 years old.

Definitions and abbreviations

Appeal In this booklet Appeal refers to a formal appeal to the First Tier Tribunal (Special Educational Needs and Disability)

Code The Special Educational Needs Code of Practice

Connexions Connexions provides careers and education advice to young people

LA The Local Authority deals with the administration of a local council. The education department may be part of the LA's children's services authority or trust.

PPS Parent Partnership Service. An impartial service in each LA supporting parents and carers of children with SEN

SEN special educational needs

SENCO special educational needs co-ordinator. The teacher in each school with responsibility for SEN.



**If there is
anything in this booklet
you don't understand or if
you would like more information,
please call our free advice line
on 0808 800 5793.**

“My child’s statement is being reviewed – what do I need to do?”

If your child has a statement of SEN, you must be asked to take part in a review of the statement at least once a year. This is to look at how well your child is doing and whether they are getting the right help.

Part I of this guide describes the review system; **part II** gives practical help for handling your own child’s review.

Part I

Statements and reviews – how the system works

1 Understanding special educational needs

What are special educational needs?

Children with special educational needs are children with a learning difficulty that means that they need extra help at school.

Children with learning difficulties either:

- find it much harder to learn than most other children of the same age or
- have a disability which makes it harder for them to use the same educational facilities (buildings, equipment etc) as other children in their area.

A learning difficulty could result from a physical or mental impairment, a medical condition, emotional and behavioural problems, communication difficulties, or problems with learning to read or write.

What is a statement?

Most children with special educational needs are given help by the school through School Action or School Action Plus. If your child has severe or complex needs, they may need the extra help that comes through having a statement of SEN. The LA may write a statement following a statutory assessment of special educational needs.

A statement describes all your child's difficulties and the special educational help they must be given. Your LA has a legal duty to ensure that your child gets the help described in the statement.

The SEN Code of Practice

The Special Educational Needs Code of Practice is Government guidance on special educational needs. The law says that schools and local authorities (LA) must "have regard" to the Code – this means they must not ignore it. Important principles for a child with special educational needs in the Code are that:

- the child should have their needs met.
- the child will normally have their needs met in a mainstream school.
- the child should have full access to a broad, balanced and relevant education, including the National Curriculum or, for younger children, the foundation stage curriculum.
- children's views should be taken into account.
- parents of children with SEN should be treated as partners.

Chapter 9 of the Code describes how Annual Reviews must be carried out.

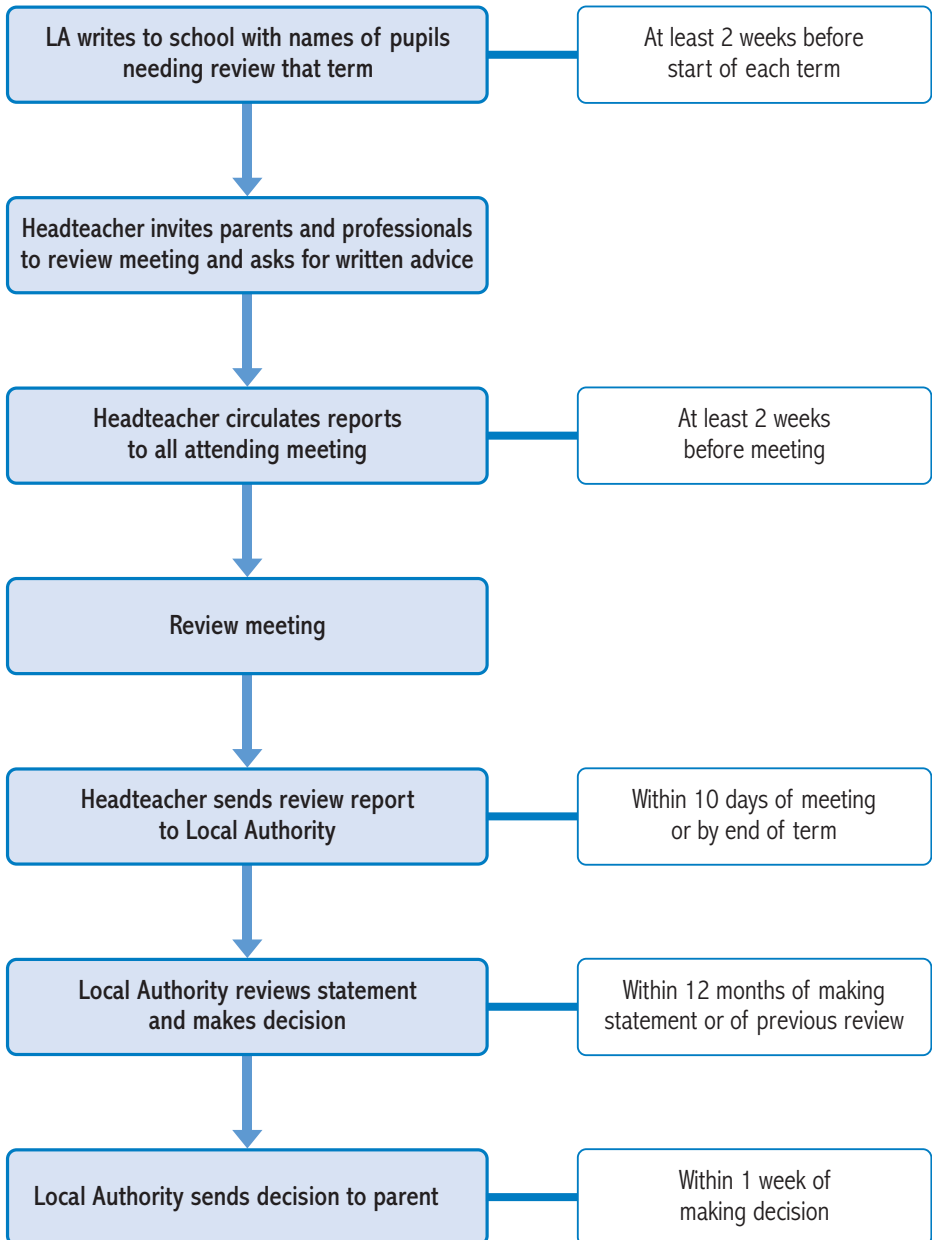
The SEN Toolkit offers good practice guidance with suggestions for schools and LAs on implementing the Code. Section 9 of the Toolkit deals with conducting Annual Reviews and section 10 with Transition Planning.

You can get a free copy of the Code and the SEN Toolkit. See Further help on page 17 for details.

2 The annual review process

Action

Timescale



Why review?

By law local authorities must review statements once a year. For children under 5 the Code recommends informal reviews at least every 6 months.

Although you may have informal meetings at school about your child and attend parents' evenings to discuss their progress, the annual review is different from these. It is a formal review of the statement and will consider questions such as:

- is your child meeting the objectives of the statement
- should the child still have a statement?
- is provision on the statement still appropriate?
- is the placement still appropriate?

The term 'annual review' is sometimes used as shorthand to refer to the review meeting. In fact the review process has four parts:

- collecting information including written advice and comments on this advice
- the review meeting
- the headteacher's review report
- the LA's review and decision

As a result of the review the statement may be changed in some way and in some cases discontinued (ceased).

Before the meeting – collecting information

At least two weeks before the beginning of each term the LA must send to all headteachers a list of children whose statements need to be reviewed that term.

The review must take place within 12 months of the statement being made or of the last review. Within this timescale there can be some flexibility over timing. Schools may want to spread reviews evenly throughout the year or may need to bring a review forward to meet deadlines for secondary transfer.

The headteacher must ask for a report (written advice) from:

- parents – the school should support parents to express their views
- anyone the LA wants to ask
- anyone the headteacher thinks appropriate

At least two weeks before the meeting the headteacher must send copies of this advice to everyone who has been invited. All those invited must be asked to send in written comments on the reports.

The review meeting

The headteacher must invite the following people to the meeting:

- parents
- a relevant teacher
- a representative of the placing LA (the one where the child lives)
- anyone else the LA consider appropriate (this could be health, Social Services or other professional)
- anyone else the headteacher considers appropriate (see above if LA hasn't already specified)

There is no formal procedure for parents to request for a particular person to be involved in the review. However it might be unreasonable to refuse such a request given that LAs and schools should be working in partnership with parents (Code ch 2). Parents should be encouraged and helped to contribute their views to the review process (Code 9.18). This must include access to interpreting and translation services where necessary (Code 9.23)

Children should also be involved in the review including attending all or part of the meeting. Chapter 3 of the Code sets out ways of encouraging pupil participation.

The review meeting will look at:

the child's progress

- in relation to the objectives in the statement
- in relation to targets set at the last review or when the statement was made
- in relation to National Curriculum levels

the provision on the statement

- does the child still need a statement?
- is the school still appropriate?
- does the child need more, less or different support?
- have the child's needs changed significantly?

The meeting will make **recommendations** – if there are differences of opinion these must be recorded. The recommendations may include:

- setting targets for next year.
- any interim review arrangements
- transport
- other issues

The chair of the meeting should explain what happens next and make it clear that it is the LA who is responsible for making any changes to the statement.

The headteacher's review report

The headteacher must send a report to the LA within 10 days of the meeting or by the end of term whichever is sooner.

This should contain a summary of the outcome of the meeting, recommendations about targets and recommendations as to the statement. The report must set out any differences of opinion in the advice received. All professional advice received must be attached to the review report.

A copy of the report must be sent to everyone concerned in the review including parents.

LA reviews the statement

The LA must consider the review report and the headteacher's recommendations. They must decide whether to change (amend) the statement and send a copy of the decision within one week of its being made.

If the decision is to amend, the process should start without delay.

The LA has the final decision on amendment of the statement.

There are no precise timescales for making a decision and some parents may find delay at this point. It is important to remember that the whole review process must be completed within 12 months of the previous review.

The options for the LA decision are:

- the LA ceases to maintain the statement
- the statement stays the same
- the LA amends the statement.

See page 15 if you are not happy with the LA's decision.

3 Special cases

Emergency/interim reviews

An interim or early review can be called in certain circumstances, such as:

- pupil at risk of disaffection or exclusion
- child's needs have changed
- recommendation by previous annual review
- child moves to new LA which decides to hold an early review (Code 8.115)

Government guidance on exclusions states that schools should try to avoid permanently excluding pupils with statements. They should if necessary consider an interim review to see if extra support can be put in place.

An interim review may be recommended by a previous annual review. This might be if the child is known to have rapidly changing needs and a year would be too long to

wait. An interim review might also be recommended if there is disagreement at the review meeting and parents or professionals need reassurance that the decision will be looked at again.

Interim reviews which are additional to the normal annual review do not have to follow the format set out in regulations.

Parents can make a request for an interim review but there is no statutory right to this.

Moving to secondary school

Where a child is moving between phases of education such as from primary to secondary school, the LA must amend the statement to name a new school by 15th February in year of transfer (Code 5.72)

The appropriate placement for secondary school should be considered at the year 5 review. If this is not possible then an early review should be arranged in the autumn of year 6.

The 15th February deadline also applies to other phase transfers e.g. where LAs have a middle school system. It does not apply to transfer from nursery to primary school.

Year 9 review and transition plan

Year 9 reviews and transition plans are covered by chapter 9 of the Code and chapter 10 of the SEN toolkit.

Transition planning

Year 9

- review statement as any other review – same timescales
- draw up transition plan
- must involve Connexions

Years 10 and 11

- review statement
- review and update transition plan
- section 139A assessment in year 11 if young person leaving school

As well as the normal review of the statement the year 9 review involves drawing up a transition plan. The transition plan looks ahead to options after age 16. These might include:

- staying on at school
- going to a local college
- going to a specialist college for young people with disabilities
- work-based training

The LA must send Connexions a list of all year 9 pupils requiring reviews at least 2 weeks before the start of the school year. As with other reviews the headteacher coordinates the review meeting. Some additional people need to be invited:

- Connexions must be invited and **must** attend
- social services must be invited and should attend if child is subject to care order, is accommodated or is a child in need
- a representative of the LA must be invited
- health professionals involved with the young person should provide advice in writing and if possible attend the meeting

The headteacher **must** ensure that the transition plan is drawn up. Connexions is responsible for overseeing delivery of the plan.

The transition plan must be reviewed and updated at the reviews in years 10 and 11. If a young person stays in a school beyond age 16 the statement will continue. If the young person is going to leave school to go on to college, the statement will end. In this case Connexions is responsible for carrying out a learning difficulty assessment under section 139A of the Learning and Skills Act. These assessments are covered by statutory guidance contained in 'Supporting young people with learning difficulties to participate and progress. See Further help on page 17. Sometimes there is disagreement where parents want the young person to stay in school after 16 and the LA want to place them in college and end the statement. In this case the LA must check that the proposed college can meet the young person's needs before ending the statement (Code 8.123).

Reviews for children not in school

Some children with statements of special educational needs may be educated 'otherwise than at school' either because they are not well enough to attend school or because parents choose to home educate. The LA remains responsible for maintaining and reviewing the statement.

The general timetable and arrangements are the same as for children attending school. The LA convenes the review meeting and someone from the LA should normally chair the meeting.

The meeting should be held in an appropriate venue e.g. hospital, LA offices or parents' home. It may involve a wider range of professionals than for a child attending school.

The LA prepares the review report instead of the headteacher and the LA must then review the statement in light of the report and issue recommendations.

Part II

Your child's annual review

1 Preparing your views

It is important to prepare well for the review. Think about whether you need support from parent partnership or a voluntary organisation or parents' group. If you need information to be translated or presented in a different format you have a right to this.

Make a spare copy of your child's statement so that you can make notes on it.

The LA or school may have a standard form for you to record your views or you can put them in a letter such as the one on page 13.

Progress over the past year

First of all look at what progress your child has made over the past year.

Targets

Look at the short-term targets set for your child. These may be part of an individual education plan (IEP) or targets set at the last annual review.

- Has your child met these targets?
- Were they too easy or too hard?
- Are there areas of particular concern?
- Are there areas of particular improvement?
- Are there any particular strategies that are working or not working?

Academic progress

- How do you think your child is doing?
- Have they made progress over the past year?
- Is your child working at the right level for their abilities and special educational needs?

The school should give you information about your child's current levels in reading, writing and maths and other national curriculum subjects. If your child has been withdrawn (disapplied) from any national curriculum subjects because of their special educational needs you should be told about this.

You have got a right to a copy of your child's full school record which will have copies of reports and any assessments. Ask the school for this in writing. It can take up to 15 school days for them to give it to you. The school may make a charge for photocopying.

Individual education plans

IEPs should include:

- three or four short-term targets that match your child's needs
- the ways of teaching (strategies) to be used
- the help to be put in place
- when the help is to be reviewed
- how the school will decide if the help has been successful.

Targets

The targets in an IEP will be set by or for your child and should be in small steps. Targets can be written like this: "by the end of the term John will be able to..."

No IEP

Although the Code recommends IEPs, schools do not have to use them but they should have a system that is as good or better to keep you up to date about your child's help and progress towards short-term targets. Ask them about this.

Behaviour and attitude to learning

Have there been any concerns about your child's behaviour? Have they in the past year:

- had any detentions?
- been excluded?
- been asked to stay at home?
- missed activities because of their behaviour?

Has anything changed at home or school which might have affected your child's behaviour?

Are the school's behaviour strategies working? Does your child need more or different support to improve their behaviour?

How does your child feel about school? Are they happy to go to school? Do they take part willingly in all activities? Are they keen to learn at school? at home?

Your child's views

Children should be involved as far as possible in the review. Your child may be asked for their views at school. Ask the school how they will do this. Is there anyone at school your child particularly trusts? You may also want to talk to your child yourself about how they feel they are doing and what helps them at school.

Checking the statement

The review meeting will also consider whether your child's statement is still up to date. The annual review is the time to ask for changes to be made.

You should check the statement very carefully. You may find the ACE booklet *Getting the statement right* useful for detailed checking.

Part 2 – Is the description of your child still accurate? If your child has had a statement for a number of years, some of the description may relate to a much younger child. Does part 2 list all your child's difficulties? Some difficulties may have become more obvious as your child has got older or the demands of school have got greater. If your child is moving to secondary school think about the different environment and expectations and how these will affect your child. Have there been any recent professional reports that say that your child's needs have changed?

Part 3 – Look at the general aims set out in the statement. These will be at the beginning of part 3 and will be long-term objectives that your child will work towards. Are these aims still right for your child? Has your child made any progress towards them?

Look at the help (provision) set out in part 3. Does the help in part 3 match all the difficulties in part 2?

Is it clear exactly how much help will be given and who will give it? The help should normally be 'specific and quantified'. This means that it is clear how many hours each day or week. It should also be clear whether the help is given by a teacher or a teaching assistant or someone else. If your child needs one to one help is this clearly stated?

Has your child been getting all the help they need? If they have missed out because the statement is vague this is a good reason to ask for it to be changed.

Has your child been getting the help they should be? If the statement is unclear it will be harder to insist that the right help is given.

Do you feel your child needs more help than the statement provides?

If your child has made very good progress, do they still need a statement at all? Would your child continue to make progress if the help in the statement were taken away? If you think the LA may want to end the statement and you disagree, give examples of how your child's progress is only possible because of the extra help they get.

A new school?

Part 4 of the statement names the school your child goes to. You may feel that your child needs a change of school if their current school is not able to meet their needs. It is also possible that the review meeting may recommend a change of school.

You have a right to ask for a change of school to a state maintained school of **the same type** e.g. mainstream primary to mainstream primary or special secondary to special secondary.

Your request must be made at least 12 months after

- a similar request
- the issue of a final statement
- the issue of an amendment to the statement
- the end of an appeal to Tribunal about the help in the statement

whichever is the latest.

Your LA has to agree to your request if certain conditions are met.

If you are looking for a **change of type of school** you will need to have changes made to parts 2 and 3 of the statement to reflect that provision. You can put forward your views at the review but the LA does not have to agree. You have a right of appeal if your LA refuses to make changes.

In some cases, particularly if your child's needs have changed a lot, it may be easier to ask for a full reassessment.

Comments on other reports

At the same time as asking for your views, the headteacher will have asked for reports from professionals involved with your child. Copies of the reports should be sent to you before the meeting. Check these reports. Do they support your views or do you disagree? Are there questions you want to ask?

If you haven't already sent in your views you could add your comments to your letter (see page 13). You could also take them along on the day of the meeting.

Annual Review – parent’s views

Dear headteacher/SENCO (give name)

You asked for my advice for the review of my child’s statement. I have listed my views below.

Objectives and targets

I think the objectives of the statement are... (still the right ones/should be changed/have been met).

My child’s progress towards the objectives is... (very good/patchy/slow/no progress or going backwards).

My child’s short-term targets ... (have been met/have been met in part/have not been met).

I would like new targets on... (give any examples of where you think targets would help).

Progress this year

I feel my child is making (good/slow/poor) progress in the National Curriculum subjects.

I am (happy/worried/unsure) about modifications and disapplications of certain National Curriculum subjects.

I feel my child’s progress in behaviour and attitude to learning is (good/sometimes difficult/a problem). (You could give examples.)

The statement

I think Part 2 of the statement should be changed to take into account the following needs of my child... (Give details of any changes or additions you would like.)

I think Part 3 of the statement should be amended to give my child the following help... (List the help you think your child should receive.)

I think my child continues to need a statement to make sure they get the help they need (or if the LA wants to end the statement:) I have some questions about the help they will get if the statement ends.

I would also like to discuss the following points... (Add anything else about your child’s progress.)

Please send me details of the review meeting, a list of those attending and a copy of the agenda.

2 Handling the meeting

Who can support you?

As a parent it can be very daunting to be in a room full of professionals. It is a good idea to have someone to support you. This might be a partner or other relative, a friend or a representative from Parent Partnership or a parents' group.

If you are taking someone with you it's a good idea to meet beforehand to discuss which part each of you will take in the meeting. For instance do you want your supporter to speak on your behalf or just to take notes?

At the meeting

ACE advises

Make sure your paperwork is ready before the meeting.

Have you got:

- a copy of your views and any questions you have?
- copies of other reports?
- a copy of your child's statement with any changes you want?
- agenda for the meeting and list of people attending?

The meeting will normally be chaired by the headteacher or possibly the SENCO. The chair of the meeting should introduce everybody and explain their involvement with your child. If you are not sure who someone is or why they are there, do not be afraid to ask.

The chair should also check that everyone has received and read all the reports. If anything new is produced at the meeting you could ask for time to read it before it is discussed.

The meeting should follow the format set out on page 5. Check your list of points and questions and tick them off as they are covered. Make a note of what is agreed and where there is still disagreement. Note any decisions that are made. The meeting should make recommendations about any changes to the statement and agree a new set of targets for the coming year.

At the end of the meeting check that you understand what will happen next. When will the headteacher be sending out the review report? It may also be helpful to write up your own notes after the meeting as a separate record.

3 If you are not happy with the LA's decision

Once the head has sent the review report the LA will review the statement in light of the recommendations and decide what action to take.

LA amends the statement

If the LA decides to change the statement it has to let you know within a week of their decision. It will send you an amendment notice telling you of the changes it wants to make. The LA has to amend the statement within 8 weeks of this notice. It has to give you 15 days to make representations about the decision. If the LA propose changing the name of the school you have a right to express a preference for the school you want. You can also ask for a meeting to discuss the statement.

If the LA changes the statement and you are not happy with the decision you have a right of appeal. You can appeal against any part of the statement not just the changes that have been made. This is particularly important if you want a different school and the LA does not agree.

LA refuses to amend the statement

It may be that you wanted changes to be made or the review report recommended changes, but the LA has decided to leave the statement as it is. **From September 2010 there is a new right of appeal in these cases.** The LA must inform you in writing and tell you of your right to appeal. You can appeal against any part of the statement, including the name of the school in part 4.

LA decides to end the statement

The LA may decide that your child no longer needs a statement. This is called 'ceasing to maintain' a statement. In this case it must tell you in writing and you have a right to appeal. It must not end the statement before the 2 month deadline for appealing. If you decide to appeal it must not end the statement before the appeal has been decided.

Appeals to SEND

All appeals in this section are made to the First-tier Tribunal for SEN and Disability (SEND). The LA must send you a letter with their decision telling you of your right to appeal and the two month deadline for lodging appeals. For contact details of SEND see Further help on page 17. A guide for parents on how to appeal is available from SEND.

No decision

In order to have a right of appeal you have to have a written decision from the LA. Although there are timescales for the headteacher's review report and the LA's notification of its decision there are no timescales for the LA's actual decision.

The LA does have a duty to review the statement within 12 months of its being made or the date of the previous review. If you have no decision within this time or you feel there is an unreasonable delay, make a formal complaint. You could also complain to the Local Government Ombudsman.

Further help

From ACE

ACE freephone advice line 0808 800 5793
Information and free advice booklets can be downloaded from www.ace-ed.org.uk

From the Department for Education

Free publications to download from <http://publications.education.gov.uk>
Ring DfE orderline 0845 60 222 60 to check availability of printed copies.

- Special Educational Needs – a guide for parents and carers
- Special Educational Needs Code of Practice
- SEN Toolkit
- Supporting young people with learning difficulties to participate and progress

From Parent Partnership

Parent Partnership is an impartial service funded by the LA to support parents of children with SEN. You can find details of your local service via the National Parent Partnership Network.

Website: www.parentpartnership.org.uk
Tel: 020 7843 6058

From Connexions

Information and advice for young people
Website: www.connexions-direct.com/
National Helpline: 080 800 13 2 19
Ring Connexions Direct to be put in touch with a local office

From SEND – First Tier Tribunal (SEN and Disability)

Publication: How to appeal a SEN decision – a guide for parents

SEN helpline: 01325 392 760

Website: www.sendist.gov.uk/Parents

From the Local Government Ombudsman

The LGO handles complaints about local authorities

Website: www.lgo.org.uk

Advice line: 0300 061 0614

Useful websites and advice lines

IPSEA (Independent Panel for Special Education Advice)

Website: www.ipsea.org.uk

General Advice: 0800 018 4016

Tribunal Advice: 0845 602 9579

Contact a Family – for families with disabled children

Contact a Family has details of support organisations for a wide variety of specific conditions including rare disorders.

Website: www.cafamily.org.uk

Helpline: 0808 808 3555

SKILL – National Bureau for Students with Disabilities

Advice on post 16 education

Website: www.skill.org.uk

Helpline: 0800 328 5050

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Thank you.

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