

my child in school



Asking for a Statutory Assessment

a practical guide to
parents' legal rights



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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.

Important notes

- The information in this booklet is based on the laws of England.
- This booklet covers statutory assessment 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 (see page 2)

IPS Independent Parental Supporter. A trained volunteer working with Parent Partnership to support parents.

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.

“My child needs a lot of extra help at school – what can I do?”

All parents want the best for their children but some children will need extra help to make progress at school. Schools can provide a lot of help themselves. Some children have severe or complex difficulties and need more help than the school can provide. Those children may need a statutory assessment to find out what their difficulties are and what help they need to learn better. In this booklet we explain how you can request a statutory assessment.

Statutory assessment is sometimes referred to as the ‘statementing process’, as in many cases it will result in a statement of special educational needs for your child.

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.

Most children with special educational needs go to ordinary mainstream school. A mainstream school is a school which provides for all children including those with SEN and disabilities. A special school only provides education for pupils with SEN, generally those with the most severe or complex needs.

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 curriculum, 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.

The SEN Toolkit has more detailed practical advice on implementing the Code.

You can get a free copy of the Code and the SEN Toolkit. See Further help on page 13 for details.

How is extra help given?

Children progress at different rates and learn in different ways. For example, some children understand and remember well if they talk about something or read about it; others learn best by doing. Schools should aim to give all pupils the chance to do as well as possible. If a child is making slow progress, the school should give some help through “differentiation”. This means teachers using different materials, methods or approaches that suit the child’s way of learning.

If differentiation is not enough and your child needs more or different help, this can be given by the school through either School Action or School Action Plus.

At **School Action** the special educational needs co-ordinator (SENCO) as well as the class teacher will be involved in gathering information about your child and planning extra help. This might involve some extra adult support or small group work. Your child will also have an Individual Education Plan (IEP) which will set short-term targets and track progress.

School Action Plus involves more specialist help, often from people outside the school such as an educational psychologist or a speech and language therapist.

In a pre-school, these levels of help are called Early Years Action or Early Years Action Plus. The ACE booklets *Getting Extra Help* and *Early Years Extra Help* cover this in more detail.



If your child needs more help than they can get at School Action Plus, they may need the extra help that comes through having a statement of SEN. A statement describes all your child's difficulties and the special educational help they must be given. A child has the legal right to the help set out in the statement.

Not all children will receive help through School Action Plus before a statement is needed. It may be clear from birth or at an early stage in your child's life that they will need a lot more help than most children or your child may suddenly need a lot of extra help after an accident, major upset or illness.

If the LA thinks your child may need a lot more support to learn or to make use of school facilities than the school normally provides, it must carry out a statutory assessment. This will involve parents and professionals in order to decide the nature of a child's difficulties and the extra help needed. If the LA then thinks it necessary, it will write a statement.

Looking at your child's needs

Is your child getting extra help?

By law you must be told if your child is receiving extra help because the school thinks they have special educational needs.

Check if the school is providing as much help as it can from its own resources.

To get some idea of the type of help that is available through School Action or Action Plus, contact the Parent Partnership Service run by your LA. They should be able to tell you what help is normally given to children in your area who are at school or pre-school. This information should also be on the LA website. See also the ACE booklets *Getting Extra Help* and *Early Years Extra Help*.

Is your child making progress?

Next find out if your child is making progress at school. Talk to your child's teacher and the SENCO at the school. You can also write to the school asking for a copy of your child's school record. This includes their school reports, individual education plans (IEPs) and any other information kept on file about your child. You must be given it within 15 school days of your letter. The school can make a charge for this.

Note: Although the Code recommends schools write IEPs, not all do, but they should have a system that that is as good or better. If your school does not use IEPs, make

sure there is information about your child's needs, the help they get, any targets the school is helping them reach and how their progress is monitored over a set time period.

Look at your child's records and mark anything which shows your child is having problems learning, for example:

- not reaching targets in their individual education plan
- test and/or assessment results which are lower than those of other children of the same age
- test and/or assessment results for one subject which are much lower than for other subjects
- school reports which say your child is not making good progress
- exclusion reports, reports of incidents involving your child, or teachers' comments, for example about concentration, which show your child has behaviour difficulties which are affecting their learning.

Asking for more help

If the information shows that your child is not learning despite extra help, you will need to ask for more help. It is a good idea to ask for a meeting with the special educational needs co-ordinator (SENCO). This is the teacher responsible for special educational needs in the school.

If you have questions, list these in the letter asking for a meeting or take them to the meeting with you. Take copies of all the information you have collected to the meeting.

If your child is not on School Action Plus but you feel they need a lot of extra help or advice from professionals outside the school:

- ask the school to put your child on School Action Plus. Check your child's progress over a few months before deciding whether you need to take further action.

If your child is already on School Action Plus but you feel their progress is not good enough:

- ask the school to give your child more help on School Action Plus.

and at the same time

- ask the LA to carry out a statutory assessment and tell the school that you are doing this.

The statutory assessment process

Making a formal request

The LA can only carry out a statutory assessment if it knows that your child has special educational needs. A health professional, such as a paediatrician, may tell the LA about your child, particularly if the child is not yet in school. You or your child's school can also ask the LA to do an assessment. **Even if the school does not agree with you, you have a right to ask for a statutory assessment of your child.**

Do not be put off if you are told that children like yours will not be assessed. Many LAs have guidelines for which children need a statutory assessment. These guidelines must not be used as blanket policies. The LA must look at your child's individual case.

ACE advises

Write to the LA to ask for a statutory assessment yourself, even if you have been told that this has already been done for you. Schools are busy places so it makes sense to write yourself as quickly as possible to prevent any unnecessary delay. If the request for an assessment comes from your health authority or social services, there is no right of appeal if the request is refused. However, if you make the request or your child's school makes the request, you can appeal if you are turned down.

To ask for a statutory assessment, write a letter like the example on page 6 to the Head of Children's Services at your local authority – this is the one for the area where your child ordinarily lives. Send a copy of your letter to the school and make sure you keep a copy.

Dear Sir/Madam

I am writing to ask you to assess the special educational needs of my child [give your child's name and date of birth] under Section 323 of the Education Act 1996.

I am making this request as is my right under Section 329 of the Act.

I think my child may need more help than the school can provide at School Action Plus. [Say which school your child attends, explain if your child has been receiving help and why you think it is not enough]

I have written my views on my child's difficulties in the enclosed report. (You can send a report now or later – see page 7 – Your views)

The following professionals are involved with my child and I would like you to get advice from them. [List the people involved with your child] I am also sending you copies of other reports which may help you make your decision. [Send copies of any reports you may have from a teacher, educational psychologist, doctor etc]

Yours sincerely

[Your name]

The LA looks into your child's case

If you or your child's school write to the LA to request a statutory assessment, the LA must look into your child's case to decide whether this is necessary. The LA has 6 weeks from receiving the letter to make a decision. The LA does not have to consider the request if your child has already had a statutory assessment within the last 6 months.

If the school or some other professional asked the LA for the statutory assessment on your behalf, the LA will write to inform you. The LA will:

- tell you about the procedures for statutory assessment and statements.
- explain the timing of each stage of the assessment.
- give you the name of a LA officer who can give further information.
- tell you of your right to explain why you want, or do not want, your child to be assessed. You must be given at least 29 days in which to give your explanation.
- ask you whether you want them to ask anyone else about your child.
- give you information about the local Parent Partnership Service.

Parent Partnership Service (PPS)

The role of the PPS is to give advice and support to parents of children with SEN. Every LA must have a PPS. Ask your PPS if they can provide you with an independent parental supporter – these are trained volunteers who can also give you support with SEN. Ask your LA for the number of your local PPS.

Before deciding whether to assess, the LA will look at whether your child:

- has not made progress even though the school, with the support of outside professionals, has already given your child suitable help.

and/or

- needs the sort of help which can only come through a statement because the school cannot be expected to provide it from their own funds.

The LA will also:

- look at evidence from the school about help they have given and your child's progress. Sometimes progress is made only because a child has had much greater help than usually provided through School Action Plus.
- check that the school has adapted the curriculum to suit your child's learning needs.
- ask the school, other professionals and yourself about your child's learning difficulties.

You can:

- write your own report
- ask the LA to approach other professionals about your child.

Sending in reports

Your views

ACE advises that you write a full report. You can send it when you send your request for a statutory assessment to the LA or when the LA asks for your views once the assessment has been agreed. It is best to get your report in at an early stage to help the LA make the right decision about whether or not to assess.

Use the checklist on page 8 as a guide when writing your report. The LA may send you a form with similar questions in it. You do not have to answer any question you are not happy with.

Parents' checklist: what to include in your advice

Your child's early years

Say when you first noticed any problems – big or small. Did you tell anyone? What help or advice did you get?

Your child now

Health – eating, sleeping, illnesses, tiredness, depression, panic attacks

Physical skills – walking, hopping, climbing, drawing, using scissors

Communication – hearing, gestures, eye contact, speech: describing things, talking to people, using the telephone, taking messages

Personal skills – dressing, washing, dealing with pocket money, time-keeping, remembering sports kit/books etc for school

Behaviour – showing feelings such as affection, anxiety, aggression, frustration; other aspects which affect school life: poor concentration, silly behaviour, not following instructions

Your child at home

Watching TV, reading, hobbies

Outside activities – clubs, sports

Relationships – parents, brothers and sisters, other adults, friendships

Behaviour at home – sharing, listening, helping, moods, caring, tantrums

Homework – difficulty with remembering what to do or getting it finished in the set time

Your child at school

What is your child good at? What does your child enjoy?

Friendships, relationships with teachers

Problem areas: lessons, playtime, changing class, school transfer

Help which has worked or not worked for your child

Are your child's difficulties getting worse?

What help do you think your child needs?

Your child's view

What does your child say about their difficulties? When do they most enjoy learning?

Your child's views are important. They can give first-hand reports of the difficulties they have and how the help they get at school works for them. Their behaviour usually shows what they feel about something.

Does any particular incident or piece of work illustrate your child's difficulties or lack of progress?

Check as many of the points in your report as possible with your child and add their comments.



Once you have been through the checklist check that your report:

- explains in detail your child's difficulties.
- gives a clear picture of your child's day to day life and difficulties.

Try to think of different ways to describe what you mean. For example, describe a typical day, provide a diary of what happens or include some examples of your child's work.

Think about the following questions and add more details if necessary:

- Do you feel that your child's difficulties give 'significant' cause for concern or are 'severe and complex'? Often this means a child has much greater difficulties than others of the same age and/or a child has considerable difficulties in more than one area.
- Do you feel that your child's needs have not been met, even though the school and outside professionals have tried? Why do you feel this?
- Do you feel that your child may need the sort of help which normally only comes through a statement? Why do you feel this?

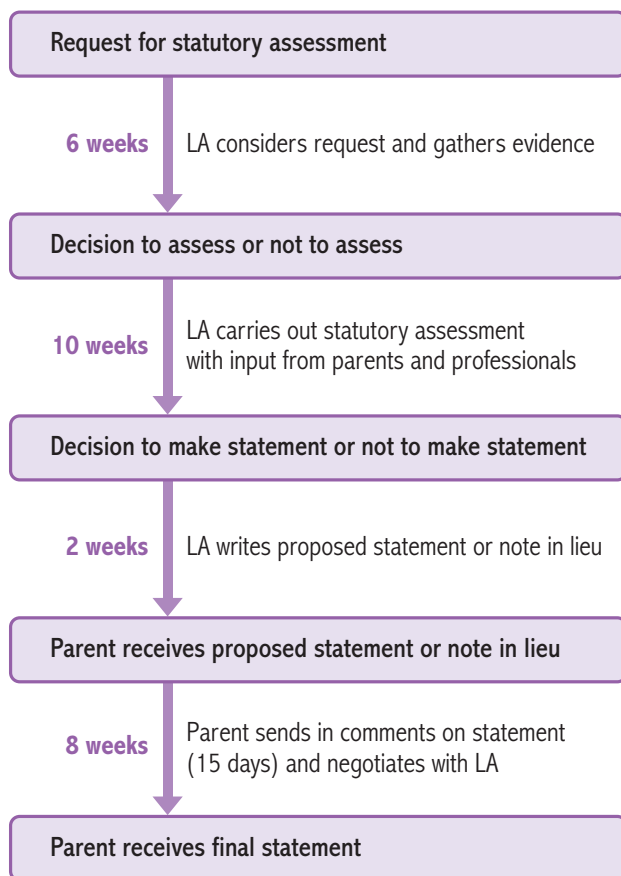
Do not worry if you cannot answer any or all of these questions. End the report by signing and dating it. Make a copy and send it to the LA with any reports that you feel are useful. It is very important to keep to the time limits given.

Other reports

If you believe your child's learning difficulties are not properly understood and that the LA will take a lot of convincing that a statutory assessment is necessary, it may be useful to ask any professionals who know your child if they will back up your case with a report. The LA must consider any evidence you want to give, including a private report.

Your child may also have been assessed by professionals from different agencies under the Common Assessment Framework (CAF). The CAF may show that your child's needs are complex and a more in depth assessment is necessary.

The statementing process: summary of timescale



The LA's decision

Within 6 weeks of receiving the request, the LA must write and tell you if it is going to assess your child.

If the LA feels that your child's needs are not great enough for a statutory assessment and that the school can meet your child's needs, it will write to say that it will not carry out a statutory assessment. It must give its reasons and explain what help it thinks your child needs. Seek advice from your Parent Partnership Service if this happens. You have the right to appeal against this decision.

If the LA decides to go ahead with statutory assessment it will follow the format set out in the next section.

What happens in the assessment?

Who assesses my child?

The LA will ask you, your child's school, an educational psychologist, the health authority, social services and sometimes others for advice. Your parental advice will probably cover the same areas as the checklist on page 8.

Are there are other professionals involved with your child, for instance a dyslexia teacher, a speech and language therapist or a mental health specialist? If so, check that they have been asked to contribute. You can also send in any reports you already have.

The LA uses the advice it receives to decide whether to write a statement or not.

Where will the assessment happen?

If your child is at school, it is likely that they will be assessed there by the educational psychologist who may use special tests to check your child's understanding and skills. In a very small number of cases a child may be placed in a special school during the assessment. This could be a hospital special school. Some professionals may want to examine your child and you have a right to be present. You have a legal duty to make sure your child attends for an examination.

How long will it take?

The LA has 10 weeks to carry out the assessment. It will ask for advice to be provided in 6 weeks but if this is delayed it may not be able to keep to the timetable. At the end of the 10 weeks, the LA has to decide whether or not to issue a statement. It has two weeks to either:

- send you a proposed statement with copies of the advice it received

or

- send you a letter saying it will not issue a statement, giving its reasons and telling you of your right to appeal.

Proposed statement

The proposed statement will describe your child's needs and set out the help that must be provided. You will need to check the proposed statement very carefully, as you have a limited time to ask for changes to be made. Use the ACE booklet *Getting the Statement Right* to help you do this.

Note in lieu

If the LA decides not to issue a statement they may issue a note in lieu instead. This will describe your child's special educational needs, explain why the LA does not think it necessary to issue a statement and give guidance about the type of support which could be helpful to your child at school. The note in lieu should be used by your child's school to help them provide the right support for your child. If you disagree with the decision to issue a note in lieu instead of a statement you can appeal against this decision.

Appeals

Refusal to assess

So long as you or the school (and in most cases the pre-school) asked for the statutory assessment, if the LA refuses the request you can appeal against this decision. The LA will inform you of the appeal process and must tell you the time limits for lodging an appeal to the First Tier Tribunal for Special Educational Needs and Disability (SEND). If the tribunal agrees with you, it can order the LA to assess your child.

The LA must also tell you about the SEN Disagreement Resolution Service. This is a form of mediation between you and the LA. You can ask for mediation as well as making a formal appeal to SEND.

Refusal to issue a statement

You can also appeal to SEND if the LA assesses your child but gives you a note in lieu instead of a statement. The LA must inform you about the appeal process and the time limits. If the tribunal agrees with you it can order the LA to make and maintain a statement for your child.

Other grounds of appeal

You can also appeal on other grounds including the content of a final statement and the school named. For more information see the ACE booklet *Getting the Statement Right*.

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 or by contacting ACE (see back page).

From the Department for Children, Schools and Families

Free publications available to order from **0845 60 222 60**

or to download from www.teachernet.gov.uk

Special Educational Needs – a guide for parents and carers

www.teachernet.gov.uk/wholeschool/sen/parentcarers/

Special Educational Needs Code of Practice

www.teachernet.gov.uk/wholeschool/sen/sencodeintro/

SEN Toolkit www.teachernet.gov.uk/wholeschool/sen/sentoolkit/

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

Telephone: 020 7843 6058

From SEND – First Tier Tribunal (SEN and Disability)

SEN helpline: **0870 241 2555**

How to appeal an SEN decision – a guide for parents: www.sendist.gov.uk/Parents

Useful websites and advice lines

IPSEA (Independent Panel for Special Education Advice)

IPSEA provides general advice relating to SEN and specific advice for tribunal appeals.

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

ACE is a charity and depends on grants and donations to operate our advice service. If you have found our advice helpful and would like to make a donation please visit www.ace-ed.org.uk
Thank you.

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