

SPECIAL EDUCATIONAL NEEDS – A PARENT’S GUIDE

What is classed as Special Educational Needs?

A child has a Special Educational Need (SEN) if he or she has a learning difficulty which calls for special educational help.

A learning difficulty is where a child finds it much harder to learn than most children of the same age.

Examples of learning difficulties include:

- Physical or mental disability
- A problem with sight, hearing or speech;
- Developmental disorder
- Specific learning difficulty
- Difficulties with reading, writing, speaking or mathematics work
- Emotional or behavioural problems
- Some medical conditions such as severe epilepsy or asthma

The difficulties can be long or short term

What to do if you think your child may have a SEN?

Discuss your concerns with your child’s teacher / School Principal / School Special Educational Needs Coordinator (SENCO)

What help is available for your child?

In Northern Ireland, SEN is guided by the Code of Practice on the Identification and Assessment of Special Educational Needs 1998 (COP) and the Supplement to the COP 2005.

The COP sets out a 5 stage procedure. Stages should not be regarded as hurdles, the child does not have to progress through stages 1 – 5. Some children may get all the provision they need without progressing through the stages, some children may jump from one stage to another, missing some out.

Stage 1: Teacher

The Class teacher identifies that the child potentially has SEN and consults with SENCO. Information regarding the child and the child's particular needs is collected and recorded and the child's name is placed on SEN Register. Special provision is put into place at an appropriate level and is monitored on a regular basis.

Stage 2: SENCO

This stage is managed by the SENCO who collects further information from teachers, parents and GP, if appropriate. An Individual Education Plan (IEP) is set up to address child's needs. The IEP should be monitored and reviewed (no statutory requirement on frequency.)

Stage 3: Outside Assistance

Assistance is sought from specialists outside school, e.g. – speech therapists, OT's, behavioural support. This is still paid for by the school and comes out of their budget. Teaching is now tailored to the child's specific needs and the IEP is updated accordingly.

The child's voice should be heard in the process and they should participate in putting the plan together. The school should provide a stage 3 review and invite the parents to attend.

Stage 4: Statutory Assessment

The Education Authority (EA) (previously the Education and Library Board) considers the need for a Statutory Assessment.

This can be requested by the school or by the parents from the EA at any time – you do not need to have gone through stages 1-3. The GP, the social worker or the Trust can also make the request.

Stage 5: Statement

The EA considers the need for a Statement of SEN. If appropriate it makes a statement and arranges monitors and reviews the position.

If the EA decides not to issue a Statement, it should consider issuing a Notice in Lieu which sets out reason for decision + supporting evidence from statutory assessment. This should be sent to parents, school and all professionals who gave advice during the assessment process.

If no Notice in Lieu is issued, the EA must give parents reasons for decision and they have the right to request a copy of any advice relevant to the decision.

What is a Statutory Assessment?

To decide what help your child needs, the EA may need to carry out a Statutory Assessment. This is a very detailed assessment to find out exactly what your child's special educational needs are and all the special help which may be required.

A multi disciplinary assessment is carried out which is led by the educational psychologist who is employed by the EA. Information and advice is collected from the parents, the school and other appropriate professionals who have worked with the child. The information from the school will include the IEP. If the parents have commissioned a private report from a professional this can also form part of the information considered if they wish.

Criteria:

The criteria for a Statutory Assessment is contained within the appendices to the Code of Practice. These are that the child's learning difficulties:

- Are significant and complex (e.g. several different difficulties)
- Have not responded to relevant and purposeful measures
- May require resources not normally available to mainstream schools (e.g. 1-1 CA or laptop)

Can you request a Statutory Assessment?

Yes, you can request a Statutory Assessment if you feel

- Your child is not progressing at school as they should because of a learning difficulty or disability
- The school is not able to provide the help your child needs

What should you do?

- Speak to the school first about your concerns
- The school may offer to write to the EA on your behalf. If not, ask them for a letter in support of your request
- Write to the Special Education Officer at your region of the EA. Keep a copy of the letter and a note of the date it was sent. You can get the address online or by phoning the following numbers:

Education Authority North Eastern Region	2565 3333
Education Authority Belfast Region	9056 4000
Education Authority South Eastern Region	9056 6200
Education Authority Southern Region	3751 2200
Education Authority Western Region	8241 1411

When will I hear back?

Within 6 weeks.

What is the procedure for Statutory Assessment?

- School consults with parents before making formal request
- The EA has 6 weeks from date of request to make decision
- The EA will send parents Notice of Intention to carry out Statutory Assessment. This Notice will inform the parents:
 - that a request has been made
 - that it is considering whether to make an assessment or reassessment of the child's SEN
 - of the procedure to be followed when making a statutory assessment
 - the name of an officer from the EA who can provide further information
 - a specified period of not less than 22 days from the date of the notice for parents to make representations or provide written evidence
 - the availability of the DARS (Dispute Avoidance Resolution Service) and the fact that making use of DARS does not affect their right of appeal to the SENDIST (Special Educational Needs and Disability Tribunal), together with the time limits for appeal should the EA refuse to carry out assessment.

What if the EA refuse a Statutory Assessment?

- If the EA decide not to assess, they must inform the parents in writing together with reasons
- Parents can appeal to SENDIST within **2 months** of the date of receipt of the decision not to assess. They can also access DARS (Dispute Avoidance Resolution Service) at the same time
- NICCY can provide you with advice and assistance.

What is a Statement?

A Statement of Special Educational Needs is a document that sets out your child's needs and the special help required, as assessed by the EA. The EA will make a Statement when it decides that the help your child needs cannot reasonably be provided within the resources normally available to the school.

- Statement should be issued by EA within 18 weeks
- The EA will issue parents with a statement putting you on notice, you then have 15 days to make representations or arrange a meeting, then a further 15 days from the date of meeting. Parents should raise concerns now as it is difficult to change the Statement once made. Include requests for any transport needs you feel are necessary.
- The EA has a duty to review all Statements – the review is based on written reports, views of staff and parents.
- The first annual review after a child's 14th birthday will have a special significance because of the EA's statutory duty under S5 of the Disabled Persons (NI) Act 1989 to commence transition planning and seek an opinion from the Health Trust as to whether a child with a statement is a disabled person and may require services from a Trust when leaving school.

Contents of Statement

Part 1 – Introduction

- Personal details

Part 2 – SEN

- Details of SEN identified during statutory assessment

Part 3 – Special Educational Provision other than Placement

- What provisions are necessary to meet the child's needs

Part 4 – Special Education Provision: Placement

- The type and name of the school

Part 5 – Non Educational Needs

- For example, provisions to be supplied by health services

Part 6 – Non Educational Provision

- Specification of any relevant non educational provision required to meet the non educational needs of the child.

Reports relied on and other documentation should be attached.

What to look out for in your child's Statement?

- All provisions contained within the Statement should specific, detailed and quantified. For example, if your child is to be provided with a classroom assistant, ensure the statement details whether this is on a '1-1' basis and for how many hours per week. Look out for terms such as "access to" – provisions should be quantified.
- Read the reports attached in detail and mark any information which is relevant to Part 2 or 3 of the Statement. Highlight any important information which has not been included in the Statement. Look for recommendations as to provision which are not included in the Statement, particularly recommendations from the school.
- NICCY can consider draft Statements and provide you with advice

What if you are not happy with the proposed Statement?

Write a letter to the EA expressing your views. Go through each part of the Statement in turn and set out the following:

Part 2 – To what extent it does not meet a diagnosis or your child's needs. Refer to any information which is missing or incorrect.

Part 3 – To what extent it does not meet a specific, detailed and quantified prescription to meet the needs set out in Part 2. Refer to any imprecise or vague terms used.

In the letter you can refer to what you believe your child needs. This should be backed up with evidence from the appendices or your own documentation. If you do not provide evidence you cannot reasonably ask for what is not provided for.

Sometimes, appendices written by professionals can be drafted in unclear terms. This means that you may need to commission independent professionals to report on your child if you want to appeal the outcome to the SENDIST tribunal.

Part 4 – Consider the school the EA has in mind with reference to Part 2 and 3. Ask yourself if it is appropriate for your child's needs, is it able to meet the provision set out in part 3 of the Statement? Is there another school which could better meet those needs? If you believe the school suggested is unsuitable as it cannot meet the child's needs then make it clear you will not accept the suggested school on the basis that Part 2 does not support such an unsuitable placement.

Be aware of the relevant timescales to ensure the EA sticks to deadlines regarding meetings and issuing in the final Statement.

If you think it is likely that you will not reach agreement with the EA start gathering your reports, evidence and witnesses. You will only have 2 months in which to appeal and will need to have your evidence ready to send in with your reasons for appeal.

Do not accept the draft Statement if you are unhappy with any part of it, first ask the EA for an explanation and remember that discussion at this stage is important, keep negotiating if possible.

Can you choose your child's school?

Parents can express a preference for the school they wish their child to attend. The EA must accept your preference as long as:

- The school is suitable for your child's age, ability and special educational needs
- Your child's presence there will not affect the education of other children at the school; and
- The placement of your child in that school will be an efficient use of the Board's resources.

When the EA sends you the proposed Statement, you will have 15 days in which to comment and to say which school you prefer. You can ask for a meeting with the EA. After this meeting you have another 15 days to ask for more meetings. Finally, within 15 days of your last meeting with the EA, you can send in any further comments and the EA will consider them. You will then be sent a copy of the final statement and be told of your rights to appeal.

If it becomes clear that agreement is not going to be reached, for example on a school placement, it may be more expedient to ask the EA to finalise the Statement immediately so that an appeal to the SENDIST can be made as soon as possible.

What if EA refuse to provide a Statement?

You can appeal to the SENDIST Tribunal – see details below.

After the first Statement

Annual Review of Statement

The EA has a duty to review all Statements at least annually, to check your child's progress and ensure that the Statement continues to meet your child's needs.

Annual reviews will look at your child's progress. The review should be based on written reports, the views of staff and the parents' views – which must always be sought.

The school will inform you of the date of the review meeting and invite you to attend. You will be asked to submit your views on your child's progress prior to the meeting. The school may also ask other professionals who have worked with your child for their views. If so you will be sent copies of these reports, at least two weeks prior to the meeting.

The annual review should aim to:

- Assess progress
- Review the special provision made for the child
- Consider whether any additional needs have arisen
- Consider whether the Statement should be maintained, amended or ceased
- Set targets for progress for the following year

In assessing progress the review meeting should consider:

- The parent's and child's views of the past year's progress and their hopes for the future
- The school's views of the child's progress over the past year
- Whether there have been significant changes in the child's circumstances which affect their development and progress
- Is current provision including the NI Curriculum, or arrangements substituted for it, appropriate to the needs of the child?
- What educational targets should be set for the coming year?
- Is the Transition Plan (where the child is over 14) helping the pupil's progress to adult life?
- Is further action required and if so by whom?
- Does the statement remain appropriate to the child's needs?

- Are any amendments required or should a recommendation be made to cease to maintain the statement?

The EA will make recommendations and these will be sent to the school, the parents and all those involved in the meeting. The review meeting will normally take place in the school.

Annual Review for Children with Statements who are educated other than at school

Although the arrangements for this review are largely the same as those for children at school it may be held elsewhere, and the range of professionals involved may be wider. The views of the child's doctor will be sought if the child is educated other than at school due to a health problem or disability.

Change of School

During the review in your child's last year at their current school, the next school placement should be considered.

Arrangements for the placement of the child should be finalised by the beginning of the last term before transfer, to allow sufficient time for any advance arrangements to be made.

Amending the Statement

If the EA wishes to amend a Statement, they must notify the parents who may make representations within 15 days. The amendment must be made within 8 weeks of sending the letter of proposal to the parents. The parents should be advised of the reasons for the EA's decision.

If a parent wishes to amend a Statement, they must request a reassessment which may then lead to a new Statement. You cannot request a reassessment within 6 months of the last assessment.

Ceasing to Maintain a Statement

A statement will lapse when a child moves onto further or higher education.

If the EA considers that it is no longer necessary to maintain a Statement for a child it may

cease to maintain it. Before doing so it must write to the parents giving notice of the decision and then cannot cease until 2 months after the letter. After the 2 months the EA must cease to maintain the Statement within the next 4 weeks. The decision must always be explained to the parents together with their right of appeal. All relevant evidence relied on should be provided to the parents.

Further Statutory Assessment

If a parent requests a new assessment of their child the EA must comply with this request if the EA concludes that it is necessary to make a further assessment and it is more than six months since the last assessment. Significant changes in the circumstances of a child would be a ground for re-assessment. If the EA concludes that a further assessment is not needed, written reasons for the decision must be sent to the parents together with their right of appeal against the decision. The EA should also write to the child's school, informing them of the decision.

Annual Reviews from age 14 to 19 years

If a child with a Statement remains at school past the age of 16 the EA remain responsible for them until the end of the term during which they reach 19.

First Review after 14th Birthday

The EA will convene a review meeting whether the child is at school or not. The parents, relevant staff and other appropriate professionals will be invited to attend. A representative from health and social services must be invited to attend, together with a representative from the careers service.

The careers service will identify any specific targets to be set to ensure independence training, personal and social skills, and other relevant issues are fully considered and addressed during the child's last years of school.

The EA will prepare the review report and the transition plan after the meeting and circulate these to all those who attended and others as appropriate.

SENDIST Tribunal

What can you appeal

- If you or the school have asked the EA to assess formally your child's special educational needs and it has decided not to, or if carries out the assessment but then decides not to make a Statement on your child
- If the EA does not make a Statement, or amends an existing Statement, you can appeal against the educational contents of the Statement.
- You can also appeal if the EA decides that your child should no longer have a Statement or decides not to amend a Statement after carrying out a re-assessment of your child's needs.
- In certain circumstances you could also appeal if the EA decides not to re-assess your child, or turns down your request to have your child placed in a different school.

What you cannot appeal

- If the EA decides not to send your child to an independent school, unless there is a new, or newly amended Statement issued.
- Against the manner in which a formal assessment is carried out, or the length of time taken to complete an assessment.
- Against the way the EA is arranging the help set out in your child's Statement or the level of funding being provided.
- Against the way a school is meeting a child's needs.
- An appeal does not arise because the EA decides not to amend your child's Statement following an annual review.
- The Tribunal only has powers over specifically educational parts (2, 3 and 4) of a Statement. You cannot, therefore appeal against parts 5 and 6 of the Statement – for example, on arrangements for home to school transport.

Is there a time limit for appealing?

Yes, you must appeal within **two months** of receiving from the EA the decision you are unhappy with.

Writing Reasons for Appeal

To appeal an SEN decision you must have a letter from the EA giving their final written decision. This letter should also notify you of your right of appeal.

In your written reasons for appeal you will need to include the following:

- The full name and date of birth of your child
- What you are appealing against and the name of the EA whose decision you are appealing

You should set the document out clearly, using headings, paragraphs or bullet points as appropriate. It is important to include as much detail as possible about your child's special educational needs and how she or he is doing at school.

You should present a clear picture of how your child's education is being handled at the time of your appeal. Refer to recent expert evidence to support your case. Be clear about whose evidence this is – name the expert and their qualifications and area of expertise. Quote directly from their report to illustrate what your child's needs are and the provision the expert states is required to meet those needs.

Try not to give too much background on historical detail, whilst some background is necessary for context you should focus on your child's present needs.

Your own views and the views of your child on the matter are relevant and should be included, but it is best to keep them brief and to the point.

Suggested Format for Reasons for Appeal

Opening

The opening sentence should state what the appeal is against. In most cases it will be against parts 2, 3 or 4 of a final Statement or amended Statement of SEN issued by the xxxxx region of the EA. State the date the Statement was issued.

Summary of Reasons

A paragraph summarising the reasons for appeal should come next. This would say, for example, if the Statement fails to state clearly the needs of the child in Part 2, or if Part 3 does not adequately set out what is required to meet the child's needs. In most cases you

would state that Part 3 is unlawful because it does not set out 'specified, detailed and quantified provision'. If the appeal is also against Part 4 then state briefly that the provision in Part 4 cannot meet the child's needs due to the nature or complexity of those needs or lack of appropriate provision.

Background

Keep this section short, but matters which should be included are:

- Where and when the child was born
- Who the child lives with
- Brief facts about early development
- When the child started school
- Any moves between schools
- The date the first SEN Statement was issued
- Significant assessments including dates of diagnosis, and details of who carried them out
- Details of all therapy the child has received, when and for how long. If therapy has stopped include reasons why.

Advice

Give names of any independent experts you will rely on to support your case.

If you have made appointments for your child to be assessed or are awaiting reports then include this and give dates of the appointments of when you expect reports to be available. Then include a sentence stating that "*full assessment reports will be produced at a later date*".

If you wish to rely on recent reports not included in the appendices to the statement then state this. These could include school reports or reports provided for the most recent review.

Part 2 of the Statement

If Part 2 is vague, out of date or lacking in detail you should state this. Refer to the Code of Practice and make it clear what changes you believe necessary to reflect your child's needs. List the changes you require and state where further clarification is required, which parts are no longer relevant, or what additional difficulties needs to be addressed.

Part 3 of the Statement

Part 3 of the Statement should begin by setting out the main objectives which the provision aims to meet. They should be directly related to the needs of the child identified in Part 2. In many cases the objectives are so general they could apply to any child and they can be criticised for that reason. There may be omissions, particularly if your child's needs were not properly identified in Part 2. Request amendments to the Statement to make the objectives specific to your child and target related. For example an objective which states "develop literacy skills" could be amended to add "so that he becomes a functional reader".

The Code of Practice states at paragraph 4.21 that "the provision set out in this section should normally be specific, detailed and quantified". This means that a properly worded Statement should include the number of hours provision and the particular staffing arrangements being put in place. If the wording is vague then say so, stating that it cannot be relied upon and would be unenforceable.

Part 4 of the Statement

In this section you need to show why the school which you propose is more suitable than the one proposed by the EA (if you are challenging this). If you are seeking a specialist placement include an initial paragraph stating that it is clear that a mainstream school is not appropriate and would not be able to provide the level of provision your child needs. Find out as much as possible about the school proposed by the EA and given reasons why it is not appropriate. Sources of information may include the school website and prospectus. Reasons why the school is unsuitable could include things such as the school setting (even a quiet unit in a busy school will not be suitable for many SEN children). There may be a lack of on site therapy. The staff there may lack expertise in dealing with the difficulties your child has. There may be an unsuitable peer group in terms of the ability and or special needs of the other pupils being very different from those of your child.

You will need to include a detailed description of the school you do want your child to attend. Provide as much information as you can as to how this school will meet your child's needs. Use expert evidence to support your case and refer to the prospectus and school website if appropriate. Give the location of the school and state how far this is from your home. If you are aware of other pupils from your local area who have transport to the school this could be relevant. If your child will require transport to the school make sure this fact is included.

Conclusion

Add a couple of short paragraphs by way of conclusion and summary of your case.

Tips

- Support what you say with evidence and refer to the Code of Practice, where possible.
- A useful tip is to number all the paragraphs in the statement by hand, so you can refer to the numbered paragraphs in your reasons for appeal. If you do this make sure you attach a copy of the marked up statement and say that you have done so.
- If your document is going to be too long when you have included all the detail above simply write in the box on the application form “see attached page”.
- You are required to send certain documents with the form, these are listed on the form.
- In addition make sure you attach any additional documents which you are relying on.

NOTE: the Department of Education is currently conducting a review of SEN which will result in significant changes to the current system. We do not have a timescale for the implementation of these changes.

Who can help?

- **NICCY** - 90311 616, www.niccy.org legalteam@niccy.org
- **SENAC** (Special Education Needs Advice Centre) - 9079 5779
- **DARS** (Dispute Avoidance Resolution Service) - 3751 2383
- **SENDIST** (Special Educational Needs and Disability Tribunal) - 9072 4887