



Getting the statement right

A practical guide to parents' legal rights



What does it mean?

This page fills you in on some of the most common legal words and jargon used in education.

In this guide we use:

- 'must' where the law says this has to happen
- 'should' when the government expects something to happen, for example guidance in codes of practice.

The booklet covers children with statements aged between two and 19 in England and Wales.

A **statement** is a legal document which sets out a child's difficulties and the help needed to deal with the difficulties so that they can benefit from education. It comes in six parts: 1. your child's personal details 2. a description of their educational needs 3. a description of the educational help they must receive 4. the school or type of school your child will attend 5. a description of your child's non-educational needs 6. a description of the non-educational help they should receive.

The law and guidance on statements applies to local education authorities (LEAs) and maintained schools as well as pre-schools, nurseries and playgroups, which have government funding.

The **local education authority** (LEA) is a department of your local council. The LEA has responsibility for writing statements and making sure that the help described in a statement is given. The LEA officer responsible for a statement is called the **Named Officer**.

Maintained schools are state funded schools and include community schools, foundation schools, voluntary aided schools and pupil referral units. They do not include academies, city technology colleges, non-maintained special schools or independent schools which are not covered by most aspects of the law and guidance.

Children with **learning difficulties** either:

- find it significantly 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 concentrating or learning to read etc. Children with learning difficulties generally need extra help at school and so are said to have special educational needs (often shortened to SEN).

Most children with statements 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.

My child is getting a statement

All parents want the best for their children but some children will need a lot of extra help to do well at school. Some children may need more help than routinely provided by schools and this must be set out on a statement of special educational needs.

Before a statement is written, the local education authority (LEA) will ask your child's teachers, a doctor, social services and an education psychologist to examine your child and write reports. You will be asked for your views too. This is described in our booklet *Asking for a Statutory Assessment*. In this booklet we describe what happens when the assessment is completed and the LEA decides to make a statement.

Step 1: get a copy of the SEN Code of Practice

The Special Educational Needs Code of Practice is a government handbook on special educational needs. The law says that schools and local education authorities must “have regard” to the Code – this means they must not ignore it. See page 12 for how to get a copy. Important principles in the Code for a child with special educational needs are that:

- children should have their needs met
- children will normally have their needs met in an ordinary school
- children 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 8 of the Code describes how LEAs must write statements.

Step 2: the LEA sends you a proposed statement

Get ready for action: this is a very important time for you to make sure your child receives all the help they need.

The proposed statement must be sent no later than 12 weeks after the statutory assessment began. It will come with:

- advice reports from everyone who helped with the assessment
- lists of local schools, special schools and approved independent schools
- a letter asking you which school you would like your child to attend.

ACE advises

You must act quickly. If someone is helping you give them a copy of the statement and reports immediately. Make an extra copy for yourself too so that you can write points on a spare copy and keep one copy clean. You need at least two felt tip pens.

Step 3: take advice

Your parent partnership service or an expert voluntary organisation (see page 12) will have experience of checking statements to make sure they follow the law and the SEN Code. Some work for parents who want mainstream places for their child. Organisations which are expert in particular special needs and disabilities may be able to help you understand and check the professional reports. See ACE's parent guide *Children with SEN: sources of help* for a list of national organisations.

Step 4: check Part 2 of the statement

Is the statement clear about all your child's difficulties and the exact help they need? For example, would a new teacher be able to work out your child's main learning difficulties from reading it?

First check your child's difficulties

The proposed statement will be attached to all the advice reports on your child. Check that all the reports listed are there. Go through them with a coloured felt tip pen. Highlight each difficulty or 'need' described in them.

Check that Part 2 of the statement lists all these difficulties. Tick them off one by one. If any are missing, make a note.

Do any of the experts who wrote about your child disagree? Is there anything you do not understand? Underline the points where this is the case and make a note.

Is the statement clear about which difficulties are most serious or does it look as though they are all of equal importance? You could make a list of the difficulties in order of importance.

Make a note of any disagreements or gaps, and list anything which is unclear.

Step 5: check Part 3 of the statement

Now go to Part 3 – often called Provision. This is where the help your child will get is described.

Does the help match the needs?

Is there help for every difficulty listed in Part 2 and in the reports? Do they match? Make a note of any gaps.

Go back to your reports and highlight with a different coloured felt tip any help they recommend. Now check that the help is in Part 3. Make a note of any gaps. If anything is unclear, underline it and make a note.

Is there enough help?

Reports from different professionals may disagree about the help needed or they may leave out the help altogether. If there are gaps or disagreements, make a note. If you disagree with any of the views on your child's needs or help, also make a note.

Is the help described in detail?

Sometimes statements can be vague or hard to understand.

Does your child's statement use words such as:

access to...

regular help...

help as required...

where necessary...

periodic...

opportunities for...?

It's very important that the statement says how much help your child will get and how often. These words leave it up to someone else to decide. If the statement is hazy, it will be hard later on to check whether your child is getting the right help.

Be clear about the help

To be clear about what your child's help will amount to on a typical day at school, ask yourself the following:

What type of help my child will get? eg equipment, learning support, teaching programme, speech therapy.

Who will give the help?

Do they need particular qualifications or experience?

How many hours of extra help are there?

How often will the help happen?

Is help for playtimes and lunchtimes included where necessary?

What teaching strategies will staff use?

Will teaching be one to one or in small groups?

If teaching is in groups, how big will they be?

How will they know if the help is working?

How often will they check progress?

How will I be involved?

Make a note of any gaps, anything that is unclear or anything you do not agree with or understand.

What happens if...

Now ask what will happen when something different happens at school.

- What will happen if the usual teacher is away? Who will tell supply teachers about your child's needs?
- What will happen if the learning support assistant is away? Will there be someone to stand in? How would this affect your child? What would you like to happen in these situations?
- What will happen on educational trips or outings? Does the statement include the extra help your child may need?
- If your child's condition or disability means they have days when they have more problems than others, does the statement include extra help for the 'bad' days.

The statement should plan for events like these which may not happen everyday but which are a normal part of school life. Make a list of help you would like to go in the statement to cover them.

Now take a look at your list of points. If you think the help is not right or not clear enough, or if you have a lot of questions, you can ask to meet with the Named Officer at the LEA. See Step 8. If you have questions about one of the reports written by a professional, you can ask for a meeting with them. See Step 9.

You are given 15 days from receiving the proposed statement to say which school you would like and to make any points about the statement but when you ask for a meeting to talk about the statement you ‘stop the clock’. The time limits only start again from the end of any meetings.

Step 6: decide which school

The draft statement will come with a list of local schools, including special schools and approved private schools. Part 4 of the statement will be blank at this stage to allow you to say which state school you would like for your child. This can be a school in your own LEA area or in another area.

Your LEA must agree if you ask for mainstream schooling as long as your child’s attendance will not seriously affect the education of other children at the school. LEAs and schools are expected to take reasonable steps to try to avoid this before refusing your request for mainstream schooling.

The LEA must agree to the particular maintained, mainstream or special school you want unless it can show one of the following:

- the school is unsuitable for your child’s age, ability and aptitude and the special educational needs set out in Part 2 of the statement
- your child’s attendance would not be a good use of resources (eg money, staff, facilities, transport)
- your child’s attendance would seriously affect the education of other children at the school.

If the school you would like for your child is a private school or a non-maintained special school (often run by charities), then you have the right to ask the LEA to consider this. The LEA does not have to agree, however, and it may suggest a maintained school, which it thinks suitable. The LEA does not have to name the best school for your child but it does have to name a school which can meet your child’s needs.

ACE advises

Ask your child what is important for them when you look at the help in the statement and when you are deciding about schools.

Which school?

Deciding which school you feel would be right for your child can be difficult. The parent partnership service may be able to help you and an independent parental supporter (IPS) may visit schools with you (see page 12). Phone schools to arrange visits and ask to see their special educational needs co-ordinator.

Ask the school for a copy of:

- their school prospectus
- their SEN policy
- their accessibility plan (this says how the school adapts its building, curriculum etc to help disabled pupils access education)
- their most recent Ofsted inspection report

Think about your child's difficulties and interests. How do they affect what you will look for in a school? Write down any questions you would like to ask the school about your child's needs and extra help.

If the school is a special school, or this is a special unit in a mainstream school, you could ask if your child will be able to spend time in mainstream classes or take part in activities such as school trips and after school clubs.

Other questions to ask when you visit:

- do staff have skills to help my child?
- what experience do they have?
- can my child access the building?
- how does the school change the curriculum for children with SEN?
- how big are the classes?
- how many children with SEN are in the school?
- how many were excluded last year?
- how does the school find out the views of pupils with SEN?
- how does it provide information for pupils?
- how does it keep in touch with parents of children with SEN?

Step 7: check Parts 5 and 6

Parts 5 and 6 of the statement describe needs and help which are not educational. There is no duty on the LEA to provide any help which is written in

Part 6 so the most important thing to check is whether the difficulties in Part 5 should be in Part 2 and whether the help in Part 6 should appear in Part 3. Remember, LEAs must make sure that the help in Part 3 is given. Some LEAs put speech therapy in Part 6 but the courts have said it is educational help and should normally be in Part 3. If it appears in both Parts 3 and 6 the LEA will still have to make sure your child receives it. Other therapies may appear in Part 6, for example help for any medical needs. If you think there is an educational need which means the therapy should be in Part 3, ask for Parts 2 and 3 to say this. If your child has particular transport needs, these might be included here but the SEN Code says this is only for exceptional cases where a child has particular needs.

Step 8: ask for a meeting with the LEA

The Named Officer must meet with you if you want to ask about the statement. You can ask your Independent Parental Supporter (IPS), someone from a parent support group or a friend to go with you. They could take notes of what is agreed. Take your marked up statement and reports and the list of points you made when you checked them. Decide which are most important before the meeting. You could provide the Named Officer with your list beforehand.

At the meeting

Begin with the points which you think will be easily agreed. Tick each point off as you go. Be clear about which points are most important and those you are prepared to give way on.

Point out any gaps, anything you do not understand or anything you believe needs adding, improving or changing. If you know what you would like the statement to say, you could suggest the wording you would like. Try to use the advice in the reports attached to the statement to back up what you are asking for.

Make a note of anything decided. If you do not agree on some points, it may be worth coming back to them at the end. If your most serious points are not agreed, you may need to ask for another meeting or ask for mediation (See Step 10).

You could discuss your possible school choice at the meeting. The Named Officer should be able to answer questions you have about schools.

At the end of the meeting check the points you think have been agreed. You can ask for further meetings. At the end of the final meeting you have a further 15 days to send in your views on anything in the statement.

ACE advises

If you ask for more than one meeting the LEA no longer has to meet the legal time limits for the proposed statement stage. It might be worth the delay because getting the statement right at this stage may affect your child's long term future.

Step 9: ask for a meeting with professionals

If you want to discuss the advice in the reports at the back of the statement, you can ask to see any of the people who gave the advice. You could ask them to come to the meeting with the Named Officer to limit the number of meetings and avoid delay.

Take your list of questions. You may wish to:

- ask for further information eg evidence for some advice
- ask about something which is not clear
- ask the person to give more advice eg about the type or amount of help which is needed.

Step 10: ask for mediation

If you disagree with the LEA on the final wording of Parts 2 and 3 of the statement or if you disagree about the school the LEA wants to name in Part 4, then you can ask for mediation. It will be up to the LEA whether it agrees to offer this. Even if you decide to go for mediation, you can go to appeal if you disagree with the final statement.

Step 11: the final statement

Fifteen days after receiving the proposed statement or after the final meeting you must send in your views and say which school you would like for your child. Eight weeks from your receiving the proposed statement the LEA must send you a final statement and the extra help begins. Remember: the deadline may be later if you have had more than one meeting.

The local education authority must make sure that the help described in a statement is given. If this does not happen you can complain to the LEA. If the help is still not given, you can complain to either the local government ombudsman, the Secretary of State for Education or the courts.

A statement must be reviewed at least once a year by law. This means that teachers (and sometimes other professionals) meet with you to discuss your child's progress and whether the help written on the statement is right.

Step 12: you can appeal

If you still disagree with the LEA about your child's needs, help or school (Parts 2, 3 or 4), you can appeal to the SEN and Disability Tribunal. Details on page 12. You can also appeal if no school is named on the final statement. You have two months from the date you received the final statement to make your appeal (see page 12).

ACE cannot cover everything here - for more help from ACE:

Early Years Extra Help
Getting Extra Help
Asking for a Statutory Assessment
Reviewing a Statement
Disability Discrimination
Children with SEN: sources of help

ACE Special Education Handbook (guide to the law on assessment, statements and appeals)

ACE advice line: 0808 8005793

ACE advice booklets and information sheets can be downloaded from:
www.ace-ed.org.uk

ACE is a charity and relies on donations and grants to provide free telephone advice. If our advice has helped, please consider making a donation via our website or to the address on page 12.

Further help

From your local education authority (LEA)

All LEAs have a Parent Partnership Service (PPS) which must do its best to provide parents of children with SEN with an Independent Parental Supporter if they want one. Ask your LEA how to contact the PPS.

From the Department for Education and Skills

Special Educational Needs – a guide for parents and carers

SEN Code of Practice

Free from 0845 602 2260 www.dfes.gov.uk/sen

From the National Assembly for Wales

SEN Code of Practice

Free from 029 2082 6078

From the SEN and Disability Tribunal

SEN: How to appeal

SEN helpline: 0870 241 2555

SEN helpline (Wales): 0159 782 9800 www.sendist.gov.uk

Other useful websites and advice lines

Independent Panel of Special Education Advice (IPSEA):

0800 018 4016 www.ipsea.org.uk

Contact a Family:

0808 808 3555 www.cafamily.org.uk



Published by the Advisory Centre for Education,
1C Aberdeen Studios, 22 Highbury Grove, London N5 2DQ

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Registered charity 313142

Designed by Sally Doust. Illustration by Linda Scott.

Printed by Wyndeham Gait Ltd., Castle Press. Grimsby.