



Special Educational Needs – England

Information for families

England

Incorporating **The Lady Hoare Trust**

Introduction

All parents want their children to do well at school. Some children may need more support than others to achieve their potential and this may be because they have a disability, medical condition or other additional needs. These can mean your child has difficulties in learning or using school facilities. This guide provides information about the different levels of support for children with special educational needs (SEN) and what you can do if you are not happy with the support your child gets.

Contents

Glossary	3
What are special educational needs?	5
Support for children under two	6
School Action, School Action Plus, and Individual Education Plans	6
Statutory assessments	7
Statement of special educational needs	10
Choosing a school	12
Transport	16
Annual reviews	17
Transition planning for post-school life	20
What you can do if you're unhappy	21
Pupils with medical needs	24
Parent partnership services	25
Pupil participation	25
Disability discrimination	26
Useful documents	28
Sources of advice and information	29

Future changes to SEN law

The government is proposing to reform the way in which support is given to children with special educational needs (SEN). Proposals are being tested in selected 'pathfinder' local authorities, and the new Children and Families Bill is currently going through the parliamentary process. It is expected that the Bill will become law in Spring 2014 and that changes will take effect from September 2014.

The current SEN system is still in force in all local authorities in England. The advice in this booklet is based on current law and guidance.

Parents and carers wanting to know more about the future changes and how their child may be affected can call our freephone helpline on 0808 808 3555 for more information.

Glossary

The following is an explanation of some of the abbreviations and terminology that you may come across.

CDC

Child development centre. A specialist health centre which children attend for assessment and support if there are concerns about their development. Many different child health professionals work together there, such as paediatricians, physiotherapists, occupational therapists and speech and language therapists.

Children's centres

These centres provide a variety of advice and support for parents and carers of children from pregnancy until the start of primary school. Centres provide direct support or advice around parenting, as well as health care support. They also

provide childcare and early learning options. Centres can also provide extra services, like access to English classes.

DfE

The Department for Education. Formerly known as the Department for Children, Schools and Families (DCSF).

BESD

Behavioural, emotional and social difficulties.

EP

Educational psychologist. A person who assesses a child or young person's learning and emotional needs.

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

EWO

Education welfare officer. A person employed by a local authority to help parents and local authorities meet their responsibilities on school attendance.

IEP

Individual education plan. A document for schools to record short-term targets and strategies for an individual pupil that is different from, or additional to, other pupils in the class.

LSA

Learning support assistant. A person who provides support for an individual pupil, or a group of pupils with special educational needs or disabilities.

TA

Teaching assistant. A person who provides learning support to a specific class of pupils.

LA

Local authority. Local government body with a wide range of responsibilities for children's education. Local authorities are now integrating all services for children and young people under one department.

MLD

Moderate learning difficulties.

OFSTED

Office for Standards in Education. A government department responsible for the inspection of all schools in England.
<http://www.ofsted.gov.uk>

PMLD

Profound and multiple learning disabilities.

SENCO

Special educational needs co-ordinator. Member of staff of a school or early years setting who has responsibility for co-ordinating SEN provision.

SLD

Severe learning difficulties.

SpLD

Specific learning difficulties. This term may be used to describe dyslexia, dyspraxia, dyscalculia, dysgraphia and related difficulties, although often taken to mean dyslexia.



The Education Act 1996 legally defines children with SEN as children who have a considerably greater difficulty in learning than others the same age. It includes children who cannot use the educational facilities which other children of a similar age use, because of their disability.

What are special educational needs?

Special educational needs (SEN) has a legal meaning. The Education Act 1996 legally defines children with SEN as children who have a considerably greater difficulty in learning than others the same age. SEN includes communication, physical, sensory and emotional difficulties that require support. This includes children who are not necessarily disabled. It also includes children who cannot use the educational facilities which other children of a similar age use, because of their disability. Children under school age, who would fall into either category without extra help, are also

included. All may need extra or different help in education than children who don't have SEN.

I think my child might have special educational needs

If you're concerned that your child has special educational needs, talk to a professional involved with your child. Depending on the age of your child, you could talk to your health visitor, someone in their early years education setting, their teacher or the SENCO at the school. Tell them what your concerns are. Give them examples to show your concerns. Ask what support can be put in place. You may wish to contact other support agencies as listed in the 'Contacts' section at the end of this guide to help you and your child.

Putting support in place

Children learn at different rates and in different ways so teachers differentiate the curriculum in order to meet the range of learning needs in their class. This means they may use different teaching methods and teach children at different levels.

Some children's needs may not be met through differentiating the curriculum and schools have a graduated response to meeting children's special educational needs. If you are concerned about your child's progress at school, please speak to the school.

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Support for children under two

If your child has a particular condition or health problem which has caused concern from an early age, they may be referred by a health professional to the local authority (LA) for a statutory assessment. If you request a statutory assessment for your child when they are under two years of age, the LA must carry it out. This assessment does not need to follow the statutory procedures that are applicable for children over two. Statements for children under two are rare. The LA should first consider individual support based on your child's needs. If a statement is issued, it is usually because your child has complex needs or a particular service is required, for example home-based teaching.

School Action, School Action Plus, and Individual Education Plans

School Action

This is when your child receives support or interventions that are additional to or different from those provided as part of the school's usual differentiated curriculum and strategies. In early years education this stage is called **Early Years Action**.

School Action Plus

This is like School Action but has an additional element where there is a request for help from outside services or



specialist help to meet your child's needs. This should be done after a meeting with you, the SENCO and other colleagues involved with your child. In Early Years education this is called **Early Years Action Plus**.

Individual Education Plan (IEP)

Strategies used to enable your child to progress at School Action or School Action Plus should be recorded in an Individual Educational Plan (IEP). An IEP should contain:

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

The IEP should be reviewed at least twice a year (or at least three times a year for children in early years education). You should be consulted as part of the review process.

If you feel that your child's needs are not being met at School Action or School Action Plus, you can request a **statutory assessment**.

Sample letter

This is an example of a letter you can use to request a statutory assessment. Please amend the letter so it is relevant to your situation.

Date of letter

Dear Sir or Madam,

I am writing to request an assessment of my daughter/son's (*give your child's name and date of birth*) special educational needs under Section 323 of the Education Act 1996.

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

I believe (*child's full name*)'s special educational needs are as follows:
List your child's special educational needs

I think they need more help than the school (*give the name of your child's school*) can provide because:
Say what help your child has been receiving and why it isn't meeting your child's needs

I understand that you are required by law to respond to my request within 6 weeks. I look forward to hearing from you soon.

Yours sincerely,
Your name & signature

Statutory assessments

A statutory assessment is a multi-professional look at your child's special educational needs. You or the school can formally request a statutory assessment from the LA. Other agencies, such as health and social services, can also make a request. See the box above for an example letter you can adapt to request a statutory assessment for your child. If you make a request, in your letter you should include the reasons why you want an assessment and any supporting

information. You should send this letter to the Director of Children's services at your LA.

If you request a statutory assessment, the LA will consult your child's school for information about the support already in place for your child, your child's progress and the school's views of your child's special educational needs.

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

After the local authority (LA) receives a request

After receiving a request for a statutory assessment, the LA will consider whether to make a statutory assessment. They must write to you to inform you that they are considering whether to make a statutory assessment. They should also set out the procedures involved and tell you of your rights to submit evidence. The LA must set a time limit for you to give your evidence. This must not be less than 29 days.

A named officer and the local parent partnership service

The LA will also give you details of a named officer at the LA who you can contact for more advice and details of your parent partnership service (see page 25 for information about these services).

Time frame for deciding if an assessment is required

The LA has six weeks to decide whether or not to make a statutory assessment. The six weeks include the 29 days you are given to submit your own evidence.

When a parent's request may be refused

Following a request from a parent, the LA must comply unless:

- they have already made a statutory assessment in the six months prior to the request
- they conclude, after examining all the evidence, that a statutory assessment is not necessary.

If the local authority decides not to make a statutory assessment, they must write to you and explain why. The letter should also contain information about your right



to appeal and details of a disagreement resolution service (see page 21 for more information about taking these steps). You have the right to appeal to an independent tribunal.

Contributing to a statutory assessment

If the LA decides to make a statutory assessment they must seek parental, educational, medical, psychological and social services' advice – and any other advice they consider appropriate. They can also contact professionals you have named for advice. A statutory assessment, where possible, should also contain the views of your child.

Parental advice

You know the most about your child so your views and the information you provide are very important to the assessment.

The LA should send you guidelines to help you record your advice. If you are having difficulty writing your views you can ask your named officer to arrange for someone to record them for you and any information you want to provide. Your parent partnership service may be able

Once a formal request for a statutory assessment has been made the LA must take certain actions within a set number of weeks:

Action	Time frame
Consider whether a statutory assessment is necessary	6 weeks
If an assessment is necessary, decide whether to produce a statement	10 weeks
Drafting the proposed statement or note in lieu	2 weeks
Finalising any proposed statement	8 weeks
Total	26 weeks

to help you prepare your advice. Contact our freephone helpline for details of your local service or see page 25.

Things you may want to consider when giving your advice:

- any health needs your child has
- your child's physical, communication and personal skills
- your child at home, for example their behaviour at home, any hobbies and interests, relationships with family members
- your child at school, for example what your child enjoys at school, problem areas, relationships with peers
- your child's behaviour
- what help is being provided and whether it is working
- what help you think your child needs
- your child's views.

When the local authority (LA) has received all the advice

When they have received all the advice,

LAs must decide whether to issue a statement or amend an existing statement. LAs have 10 weeks to make the statutory assessment and decide whether to issue a statement.

If the LA decides not to issue a statement or amend an existing statement, it must notify you and the school, explaining why. The letter should explain your right to appeal and contain details of a disagreement resolution service. See page 21 for further information about appeals and disagreement resolution services.

Note in lieu of a statement

If the LA decides that your child's special educational needs can be met by the school's resources and decides not to issue a statement, it may issue a note in

Freephone helpline: **0808 808 3555**
 Web: **www.cafamily.org.uk**

lieu of a statement. This is not a legally binding document but may provide the school and you with guidance in supporting your child. If the LA provides a note in lieu of a statement, it must also provide details of how you can appeal and details of a disagreement resolution service.

Statement of special educational needs

LAs must follow the same procedures for issuing a new statement and for amending an existing statement following a reassessment.

Proposed statement

If the LA decides that your child needs extra provision to meet their special educational needs, you will be sent a proposed statement or, following a reassessment, a proposed amended statement. You should also receive a list of all maintained primary or secondary schools and a list of non-maintained special schools and approved independent schools. All reports and

It is very important that you check the proposed statement thoroughly and make sure you're happy with all parts.

evidence gathered for the statutory assessment must be included with the proposed statement, usually attached as appendices.

What the statement should contain

The statement is made up of six parts.

Part one: introduction

This contains your child's details such as name, address and date of birth.

Part two: special educational needs

This is a description of your child's current special educational needs as identified by the LA. It should be arranged in a way that relates directly to the provision specified in part three of the statement and should draw on and refer to the professional advice attached in the appendices.

Part three: special educational provision

This contains the special educational provision that the local authority considers necessary to meet your child's special educational needs. It should include:

- the objectives of the provision
- details of the special educational provision the local authority considers necessary to meet your child's special educational needs
- the arrangements for monitoring progress to see if the provision is meeting the objectives.

Part four: placement

This is the type and name of school, or the LA's arrangements for provision to be made other than in school. This



part will be left blank in the proposed statement for you to state a maintained school or make representations for a non-maintained or independent school. See 'Choosing a school' for further information.

Part five: non-educational needs

This contains your child's non-educational needs as agreed between health, social services or other agencies and the LA.

Part six: non-educational provision

This is the provision to meet the non-educational needs outlined in part five. It should include the objectives of the provision, and explain the arrangements agreed between the LA and the organisation making the provision for ensuring it is delivered. Part six does not have any legal force.

Checking the proposed statement

It is very important that you check the proposed statement thoroughly and make sure you're happy with all parts. It may be useful to make a copy of the

proposed statement and the advice reports in case you want to write anything or highlight parts.

When reading the proposed statement, try to imagine a new teacher or a different school with no knowledge of your child reading the statement. Would the statement tell them your child's main learning difficulties and the help needed to meet those difficulties? Check that:

- it lists all of your child's needs and difficulties. Check the advice reports and make sure that each difficulty or need is listed in part two
- it lists all the provision needed by your child. Make sure that for each difficulty listed in part two there is a provision listed in part three
- the help is described in detail. Make sure that for each provision, it says how many hours help will be provided, who will provide it and how often
- details are given of any special equipment your child needs and who will provide it
- break times and lunchtimes are covered if your child needs help during these periods.

Also,

- make a list of any disagreements or gaps between the professionals' reports and the proposed statement
- highlight any words or phrases that you don't understand and ask for an explanation

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

- make a note of anything you disagree with, anything that is unclear or any gaps. You can include any wording you would like to see in the statement.

Timescales involved

You have 15 days from receiving the proposed statement to make representations (give your opinions) about the proposed statement to the local authority and to express a preference for a school.

You can also request a meeting with the local authority (LA) to discuss the proposed statement within the 15 days.

If, after a meeting, you still disagree with the proposed statement, you have 15 days to request further meetings and make further representations.

After the last meeting, you have a final period of 15 days to submit your comments to the LA.

Within eight weeks of issuing the proposed statement (or longer if your meetings extend this period), the LA must issue a final statement.

Therapy

If your child needs speech and language therapy, it is important that this is specified in the statement. Speech and language therapy can be educational provision and should therefore be included in part three of the statement.

Getting help

You can take someone with you to any meetings with the LA. Friends, relatives or your local parent partnership service can attend the meetings with you. You can also meet with any professionals who contributed to the statutory assessment.

Getting a copy of the final statement

The LA must send you a copy of the final statement, written notice of your rights to appeal to the Special Educational Needs and Disability (SEND) Tribunal and the time limits for lodging an appeal. You have two months to lodge an appeal after the LA's decision. The LA must also inform you of your local parent partnership service, disagreement resolution service and that your right to appeal cannot be affected by any disagreement resolution procedure. See what you can do if you are unhappy for more information on page 21.

The LA may issue a final statement even if you and the LA are still in disagreement. LAs must arrange the special educational provision from the date on which the statement is made.

Choosing a school

Part four of the statement is left blank so you can state your preference for a maintained school or make representations for a non-maintained special school or an independent school. With the proposed statement you should receive a list of all maintained primary or secondary schools and a list of non-maintained special schools and approved independent schools.

Stating a preference for a maintained mainstream or special school

The SEN and the Equality Duty under the Equality Act 2010 gives you a stronger right for a place in a mainstream school for your child. LAs can only refuse a mainstream school place where the education of other children would suffer. In this situation, they may offer another mainstream school which would better meet your child's needs.

This strengthened right to a mainstream place does not prevent you from stating a preference for a maintained special school.

When the LA can refuse your preference for a maintained school

The LA must name the maintained school you prefer unless:

- the school is unsuitable for the child's age, ability, aptitude and the special educational needs set out in part two of the statement, or
- the child's attendance is incompatible with the efficient education of other children in the school, or
- the child's attendance is incompatible with the efficient use of the local authority's resources.

Choosing an Academy or free school

Academies are state funded independent schools which are regulated by individual contracts or 'funding agreements'.

Although academies are not the same as maintained schools in law, you should be able to express a preference for an academy in the same way as you would



for a maintained school. If you are unsure of your rights to ask for a particular school to be named on your child's statement contact our helpline for further advice.

Choosing a non-maintained or independent school

If you want your child to go to a non-maintained special school or independent school, you have no right to 'state a preference' for such a school. But you can 'make representations'. The LA will listen to your representations but they will first consider if there is suitable provision within the maintained sector. When making representations for a non-maintained special school or independent school, it is not enough to argue why the school is best for your child. You need to show that LA provision

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Types of school/education

Academy

An independent school funded by the Department for Education, but is not controlled by a LA. Academies are maintained schools and can be named on a statement. There has been a large increase in existing state schools, including special schools, becoming academies due to the recently passed Academies Act 2010.

City Technology College

A school which operates as an independent state school and is jointly funded by the government and private sponsorship. They may operate their own admission criteria which all pupils, including those with SEN, must satisfy.

Foundation school

A school which receives funding via the local authority (LA) but retains control of their own administration. When grant maintained schools were abolished, most became foundation schools.

Free school

A new type of school that can be set up by local groups, or parents, in response to a need for a new school in a particular area. Free schools are similar to academies in their legal status and funding arrangements with the Department for Education.

Portage

Home based educational support for pre-school children with special educational needs.

Studio school

A school for children aged 14 to 19, which focuses on a more 'hands on' approach to the curriculum and life skills. These schools are not fee paying schools. They have the same legal status as academies

Independent school

A school which is not maintained by a LA and charges fees. They may be approved by the Secretary of State as being suitable for children with special educational needs but are not covered by much of the law governing schools. However, the Equality Act does apply.

Maintained school

A school maintained by a LA, including community, voluntary aided and foundation schools.

Mainstream school

A school maintained by the LA which is not a special school.

Special school

A school exclusively for children with special educational needs.

Non-maintained special school

A special school in England which is not maintained by a LA and charges fees. They are usually run by a charity or charitable trust.

Pupil Referral Unit (PRU)

Alternative education school or other place maintained by a LA to provide education for pupils who are not able to attend mainstream school because of illness, exclusion or another reason.



(the maintained sector) is unable to meet your child's needs.

Of course, you can choose to send your child to a fee-paying independent school at your own expense. If the LA believes the school can make the provision to meet your child's needs and you can fund the place for a reasonable period of time, the LA can state the type of provision in part four of the statement. It does not have to name the school in the statement. However, the LA is still under a duty to maintain your child's statement and review it annually.

When a residential school will be considered

The SEN code of practice says that a residential school is likely to be considered where there is multi-agency agreement that your child:

- has severe or multiple SEN that cannot be met in local day provision
- has severe or multiple SEN that require a consistent programme both during and after school hours that cannot be provided by parents with support from other agencies
- is looked after by the LA and has complex social and learning needs, and the placement is joint-funded with social services
- has complex medical needs as well as learning needs that cannot be managed in local day provision and the placement is joint-funded with the health authority.

In these situations the code of practice recommends a multi-agency plan be put in place which enables three-way (tripartite) funding between health, education and social services.

When a residential school is agreed

If it is agreed that a residential school should be named in the statement, you and the LA should also agree arrangements for your child's contact with their family and for any special help, such as transport, needed to maintain

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

that contact. If your child is attending a residential school for longer than three months, the LA must also inform either the social services department where you live or the one in the area of the residential school. It is good practice to inform both.

Education otherwise than at school

This is when the LA has made other arrangements for your child, for example education in a pupil referral unit or home tuition, or when you are home educating your child.

When you've decided to home educate

If you are home educating your child and he or she has a statement, it is still the LA's duty to ensure that your child's needs are being met. If your arrangements are suitable, the LA is relieved of their duty to arrange the provision specified in the statement. However, they are still under the duty to maintain your child's statement and to review it annually.

Transport

When the LA must help with transport to school

LAs have a duty to provide free school transport to pupils up to the age of 16 where they consider it 'necessary' in order to get them to the nearest suitable school. This will depend on all circumstances, including the walking distance between home and school, family and social circumstances, health, additional needs and/or disability. There are also special rules for families on low incomes.



The school is beyond 'walking distance'

LAs generally have a duty to provide free school transport to the child's nearest suitable school if it is beyond the statutory walking distance from their home. The walking distance is defined as:

- up to two miles for pupils under eight years of age
- up to three miles for pupils aged between 8 and 16.

If you have chosen a school beyond walking distance

If your preferred school is beyond the statutory walking distance but the LA considers that there is a nearer suitable school, the LA does not have to provide free school transport.

Other situations when transport may be considered necessary

There are other situations where transport may be considered necessary. LAs can provide transport to pupils who:

- cannot walk to school for medical reasons, or because they have a disability; or

- live within the walking distance but without free transport could not reasonably be expected to get to school.

However, LAs have the discretion to pay part or all of any pupil's reasonable travelling costs.

Low income families

Children from low income families may be entitled to travel arrangements depending on their age and the school they attend. Low income families are defined as those whose children receive free school meals and/or receive the maximum level of working tax credits. To find out if your child would qualify for transport under this rule, contact the helpline for further information.

Information about the LA's home to school transport

Local authorities must publish their home to school transport policy on an annual basis. They should have a clear policy on transport for children with special educational needs.

Transport and statements

Transport can be included in part four or six of the statement but it is usually only included in exceptional cases where a child has particular transport needs.

Get advice

Many families experience difficulties in getting the LA to provide suitable transport for their child and have to challenge the LA. Contact the helpline if you experience any difficulties.

Local authorities must publish their home to school transport policy on an annual basis. They should have a clear policy on transport for children with special educational needs.

Annual reviews

All statements (other than those for children under two) must be reviewed at least annually. Statements can be reviewed more frequently where needed. The annual review is to discuss both the progress your child has made and whether any changes need to be made to the statement. Your views and that of your child are an important part of the review. The timing of annual reviews should reflect the circumstances of your child, such as changing schools (see page 20 for more information).

Before the annual review

Two weeks before the start of the school term the LA must inform the headteacher, in writing, which pupils'

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

statements must be reviewed that term. The head will invite you and any relevant professionals to the review meeting. The head will then request written advice about your child's progress and the appropriateness of the statement from you and any professionals the LA and/or the head thinks are appropriate.

At least two weeks before the review meeting, the head will circulate any written evidence and invite comments. Your views are very important. When providing your written advice and reading the advice from others involved in the annual review, you may want to think about the topics you covered when you originally provided parental advice for your child's statutory assessment and when checking your child's proposed statement.

The review meeting

Often the review meeting will only involve you, teachers from your child's school and perhaps someone from the LA. Other professionals do not usually attend a routine annual review meeting but will attend if there is a problem, or if the annual review meeting is to discuss planning for your child's future after school (often called 'transition'). You can take a friend, relative or someone from the parent partnership service to the review meeting to support you.

The review meeting should consider if your child's statement is still appropriate, any amendments to be made to the statement and if the LA should continue to maintain the statement. The meeting should look at any progress made in



relation to previous targets and provide a new set of targets for your child for the coming year. These should meet the objectives set out in the statement.

After the review meeting

No later than ten days after the review meeting, the headteacher must prepare and submit a report to the LA. The report will summarise the meeting's conclusions and include any recommendations, with reasons, about whether the statement should be amended or maintained. The headteacher will also send a copy of the report to you and any professionals involved with the review process.

The LA will decide whether to make any changes to your child's statement. They can decide to:

- amend the statement
- leave the statement unchanged
- cease to maintain (end) the statement.

When the statement is changed

Within one week of making their decision, the LA must write to you to tell you what they have decided to do. If they are changing the statement, the LA must send you an amendment notice with details of the proposed changes and should start the process of amendment without delay.

If you disagree with changes or a decision to stop maintaining the statement

When the amended statement is issued, the LA must inform you of your right to appeal. You can appeal if the LA amends the statement and you disagree with any part of it (not only the amendments) or if

The Annual Review is your opportunity to check the Statement is correct and discuss any changes that might be needed.

the LA decides to cease to maintain your child's statement. You can also appeal if the LA decides not to amend the statement.

Statutory reassessments

Sometimes it may be necessary to request a reassessment of your child's needs when they already have a statement if your child's needs have changed significantly and the last statement needs to be amended. The process and timescales involved are the same as for requesting a statutory assessment.

You can request a reassessment in the same way as requesting a statutory assessment: you and/or the school can write to the LA. A reassessment may not be the most appropriate way of securing amendments to the statement and so it is best to seek advice before taking this step.

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Changing the name of the school

You can ask for the name of the school on your child's statement to be changed, even if the review doesn't recommend it. You can only request this if you want another maintained school of the same type, for example special to special or mainstream to mainstream. If you want your child to go to a different type of maintained school, for example from a mainstream school to a special school, you may need to request a reassessment. Call our freephone helpline on 0808 808 3555 for advice on this.

You can ask for the school to be changed as long as it is not within one year of:

- a similar request
- the final statement being issued
- the statement being amended
- the conclusion of an appeal to SEND Tribunal.

The local authority must agree unless:

- the school is unsuitable for the child's age, ability, aptitude and the special educational needs set out in part two of the statement; or
- the child's attendance is incompatible with the efficient education of other children in the school; or
- the child's attendance is incompatible with the efficient use of the local authority's resources.

The LA must respond within eight weeks of your request and you can appeal to the Special Educational Needs and Disability (SEND) Tribunal if you disagree with their decision.

If you are requesting a change of school, check that the school can provide the provision specified in part three of the statement.

Transfer from primary to secondary school

The move from primary school to secondary school should be considered at the year five review of your child's statement. This is so recommendations can be given about the type of provision your child will require at secondary school. This will also give you plenty of time to visit different secondary schools and consider your options.

Your child's statement must be amended by the 15th February of the year they transfer. This is year six if your child is moving from primary to secondary school. In some cases the annual review will be brought forward to the autumn term if the secondary school options were not clear at the year five review. All the arrangements for your child's placement at secondary school should be completed by the beginning of March of the year they transfer.

Transition planning for post-school life

Year nine annual review and the transition plan meeting

There should be several agencies involved in your child's year nine annual review. A careers service should attend and other agencies with a major role in your child's post-school life, such



as health and social services, should be invited. The review should focus on the needs of your child as they move into further education, training or employment. The transition plan should be created as a result of the year nine annual review and should be reviewed annually when the statement is reviewed. The transition plan brings together information to plan for a young person's move into adult life.

For more detailed information about transition, see the Contact a Family guide *Preparing for adult life and transition*.

What you can do if you're unhappy with the support

Sometimes parents disagree with the school's and/or local authority's views of their child's special educational needs and the support required to meet those needs. There are different courses of action open to you if you are unhappy with the support your child is receiving.

Disagreement resolution services

All LAs must provide disagreement resolution services. These are independent services that can help

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

resolve disagreements between LAs and parents about the performance of duties under education legislation and between parents and schools about the special educational provision for their child.

LAs should inform you of these services when they inform you of the right to appeal to Special Educational Needs and Disability (SEND) Tribunal. You can use disagreement resolution services and still appeal to SEND Tribunal. However, if you are involved in disagreement resolution, be careful not to let the time pass for lodging an appeal.

Special Educational Needs and Disability (SEND) Tribunal

You can appeal to the SEND Tribunal against decisions made by the LA about your child's education. Appeals to the tribunal regarding SEN issues must be



lodged within two months of the LA's decision.

What you can appeal to the SEND Tribunal about

You can appeal to the tribunal if your LA:

- refuses to carry out a statutory assessment or reassessment of your child's SEN (providing the LA has not made a new assessment in the last six months)
- refuses to issue a statement after carrying out an assessment.

Also, if the LA has made a statement, amended an existing statement or refused to amend a statement after a reassessment, you can appeal:

- against the description of your child's SEN in part two of the statement
- against the description of the educational provision in part three of the statement
- against the school named in part four of the statement
- if no school is named in part four of the statement
- if the LA refuses to change the school named in your child's statement, providing the statement is at least a year old (note you can only request a LA maintained school)
- if the LA will not amend the statement after an annual review.

You **cannot** appeal to the SEND Tribunal:

- if the LA refuses a request to change the name of the school to an independent or non-maintained school
- about the way the LA carried out the

assessment and/or the length of time it took

- about how the LA is providing the help specified in your child's statement
- about the way the school is meeting your child's needs
- about parts five and six of your child's statement – your child's non educational needs and how the LA plans to meet those needs.

Appealing to the SEND Tribunal about disability discrimination

The SEND Tribunal also deals with disability discrimination claims. See page 26 for further information about disability discrimination. You can appeal to the SEND tribunal if you feel that a school has discriminated against your child in their:

- admissions arrangements
- education and associated services, including school sports, school trips and lunch and break times
- exclusions, whether they are permanent or for a fixed period.

You have six months from when the alleged discrimination took place to make a claim.

More information about appealing to the SEND Tribunal

You can contact the SEND tribunal for further information about what you need to do if you decide to appeal and the appeal process. They also produce the guides 'Special Educational Needs: how to appeal' and 'Disability discrimination in schools: how to make a claim'. You can download them from their website or contact the SEND tribunal to request a copy.

SEND Tribunal

Tel: 01325 392760

www.sendist.gov.uk

Other ways you can make a complaint

There are other ways you can make a complaint if you are unhappy with the education provision for your child. These are briefly outlined below. However, it is important that you get specialist advice before pursuing these.

Complaining to the Local Government Ombudsman

You can complain to the Local Government Ombudsman about cases of 'maladministration'. This means something that the local authority has done wrong or failed to do that has directly affected you. Some examples of complaints to the Local Government Ombudsman are about delays in taking action, failing to provide information, and children missing out on education.

Local Government Ombudsman

Tel: 0300 061 0614

www.lgo.org.uk

Court action

A judicial review is the way that courts supervise how public bodies exercise their powers. A judicial review will consider how the public body, such as a LA, carried out their duties and check that their decisions were lawful.

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

The SEN code of practice does stress that a medical diagnosis or disability does not necessarily imply SEN but accepts that some pupils have medical conditions that, if not properly managed, could hinder their access to education.

There may be other legal routes open to parents, such as challenges under the Human Rights Act 1998 and cases of negligence. We recommend that parents get specialist legal advice if they are thinking of using this route of complaint.

Complaining to the Secretary of State

If you feel that the LA or school governors have acted 'unreasonably' or have failed in their duties under the Education Acts, you can complain to the Secretary of State. You will usually have to demonstrate that you have exhausted all other complaint processes before complaining to the Secretary of State. Find out more about this on the Department for Education website: <http://tinyurl.com/am3ggz6>

Pupils with medical needs

Support available for children with medical needs

All schools should have a policy and procedure for dealing with the education of pupils with medical needs. This may be incorporated within the school's SEN policy. It should include information such as procedures for ensuring a smooth return to school after a period of absence due to medical needs, provision of work for pupils while absent for such a reason, monitoring attendance and strategies of support for long term absence.

Health care plans

If your child has medical needs, they may benefit from a health care plan. This will identify the level of support that your child needs and clarifies the help that can be provided. This should be reviewed at least annually, but can be reviewed more frequently depending on your child's needs.

SEN and medical needs

Diagnosis and SEN

The SEN code of practice does stress that a medical diagnosis or disability does not necessarily imply SEN but accepts that some pupils have medical conditions that, if not properly managed, could hinder their access to education.

In some cases a health care plan may not provide sufficient support to meet your child's needs.

Pupils unable to attend school

Statutory Guidance says that LAs must arrange suitable full time education for

children of compulsory school age who because of illness would otherwise not receive this. Education should be suitable to the child's age, ability, aptitude and any SEN they might have.

LAs should arrange education if it is clear that an absence will last more than 15 days. The guidance says that:

- LAs should arrange education from day one for pupils who have prolonged or recurring periods of absence
- education should be equivalent to what a pupil would receive in school, including a broad and balanced curriculum.
- Education should be of good quality, allow pupils to take appropriate qualifications, prevent them from falling behind their peers and allow successful reintegration as soon as possible. It may be appropriate for a pupil to attend school on a part time basis at first
- LAs should liaise with school and other education provider and should set up a personal education plan for a pupil.

Contact our freephone helpline for further advice about the support available for children and young people with medical needs.

Independent parental supporters

Parent partnership services are expected to provide a range of services including access to an independent parental supporter for any parent who wants one. An independent parental supporter is someone who can support you by, for example, attending meetings, encouraging parental participation and providing information about SEN procedures.



For details of your local parent partnership service contact your local authority or call the Contact a Family helpline on 0808 808 3555. You can also visit www.parentpartnership.org.uk

Pupil participation

Right to opinion

Your child's input and views are important in their education. The United Nations Convention on the Rights of the Child says that children, who are capable of forming views, have a right to receive

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Making a complaint

Depending on the circumstances of the case, you can take your case to the Special Educational Needs and Disability (SEND) tribunal. You should make a claim of discrimination within six months of the incident. See page 21, section 'What you can do if you're unhappy' for more details.

information, to express an opinion and to have that opinion taken into account in any matters affecting them.

Involving your child in making decisions

The SEN code of practice supports this and says that children should, where possible, take part in all decision-making processes in education. This includes setting learning targets, choosing a school, contributing to the assessment of their needs, annual reviews and the transition process. All children, regardless of whether they are attending a mainstream or special school, should be given the same chances to take part in decisions about their education. However, some children may need more support and time than others to express their views.

Support to take part in decision making

Your child may want to express their views through you or another family member, an independent supporter such as an advocate, a careers advisor, personal advisor, counsellor, social worker or health professionals.

Sometimes there are differences of opinion. If you and your child have different views, both views should be listened to and recorded separately with respect for any differences of opinion.

Disability discrimination

It is unlawful for any school or provider of further education, higher education, adult and community education to discriminate against disabled pupils (including prospective pupils), under the Equality Act 2010. The Equality Act is a new piece of legislation that replaces the previous Disability Discrimination Act.

Who is covered by the Equality Act?

Your child will be covered by the Equality Act 2010 if they have a disability as defined by the Act. The Equality Act defines disability as 'a physical or mental impairment, which has a substantial and long-term adverse effect on a person's ability to perform normal day-to-day activities'. This is a broad definition and includes a range of impairments such as mobility and sensory difficulties, mental health issues, epilepsy, AIDS, diabetes and multiple sclerosis. Not all disabled children have special educational needs,



for example a child with severe asthma may have a disability under the Equality Act but may not have special educational needs. It may also be the case that a child may have SEN but is not covered by the Equality Act.

The areas of education where the Equality Act applies

It is against the law for schools to discriminate against a disabled child for a reason relating to their disability in:

- admissions (unless this is a permitted form of selection)
- education and associated services. This includes all aspects of school life such as school trips, extra curricular activities, teaching and learning, and school sports
- exclusions.

What counts as discrimination?

Discrimination may take two forms:

- less favourable treatment of a disabled pupil, or prospective disabled pupil, that the school cannot justify
- failure to make 'reasonable adjustments' to ensure a disabled pupil, or prospective disabled pupil, is not at a substantial disadvantage compared to non-disabled pupils.

The body responsible for complying with the Equality Act

In education, it is the duty of the responsible body to ensure that the school complies with the equality duties in the Equality Act. The responsible body may be the governing body, local authority, or proprietor of the school depending on which type of school your



child attends.

Accessibility plans

Local authorities and schools also have a legal duty to prepare accessibility plans to improve the access to education for disabled pupils. These should include how they are going to make the physical environment, curriculum and the provision of information more accessible for disabled pupils and other persons using the school.

Auxiliary aids and services

From September 2012 schools and local authorities have a legal duty to take reasonable steps to provide auxiliary aids and services to disabled pupils. This could include personal support, or equipment such as a computer, which helps the disabled pupil to take part in school life and stops them being put at a disadvantage compared to other pupils.

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Further advice on disability discrimination

If you feel that your child has been discriminated against, contact the Equality Advisory Support Service for specialist advice.

Equality Advisory Support Service

FREEPOST Equality Advisory Support Service FPN4431

Tel: 0808 800 0082

Textphone: 0800 800 0084

www.equalityadvisoryservice.com

Useful documents

There are a number of key documents produced by the government that you may find useful. The majority of the documents listed here are aimed at

Promoting equality in schools

The Equality Act 2010 has replaced the Disability Discrimination Act 2005. This still includes disability discrimination and promotes the disability equality duty. Schools are now required to promote equality of opportunity for disabled people. A disability equality scheme should set out the school's priorities for promoting equality, for example reducing the number of exclusions of disabled pupils. Independent schools are not required to comply with the equality duties, although they are encouraged to do so as a matter of good practice.

LAs and education settings, but are still useful for parents as they outline the responsibilities of LAs and education settings.

The following documents are available free of charge from the Department for Education's (DfE) website at www.education.gov.uk

Ensuring a good education for education for children who cannot attend school because of health needs

Statutory guidance on the duty of Local Authorities to arrange The minimum national standards for the education for children and young people who are unable to attend school because of medical needs. You can access this document through the Department for Education's website:

<http://tinyurl.com/bexvm76>

Inclusive schooling – children with special educational needs

This provides guidance on the statutory framework for inclusion. It gives examples of the reasonable steps schools must make in ensuring children with statements are included. You can access this document through the Department for Education's website:

<http://tinyurl.com/chvw5he>

Special educational needs code of practice

The code of practice gives practical guidance to LAs, maintained schools, early education settings and others on carrying out their statutory duties to identify, assess and make provision for children's special educational needs.



You can access this document through the Department for Education's website: <http://tinyurl.com/c5xt6hr>

Removing barriers to achievement: The government's strategy for SEN

This strategy sets out the government's vision for enabling children with SEN to realise their potential. You can access this document through the Department for Education's website:

<http://tinyurl.com/d7cmem6>

Home to school travel and transport guidance

The guidance covers local authority duties and powers relating to school travel arrangements for children and young people. You can download this document on the Department for Education website: <http://tinyurl.com/csec6v6>

Sources of advice and information

The following organisations can provide further advice for parents with children with special educational needs. As well as these, many of the large charities and national support groups that deal with specific disabilities have their own education advisers or produce guides about various aspects of education. Your local parent partnership service may also be able to advise and support you.

Contact a Family SEN Advice Service.

Freephone helpline: 0808 808 3555
We offer expert advice and support to families whose child may have special educational needs. Provides help on any aspect of a child's education.
www.cafamily.org.uk/sen

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Education Otherwise

PO Box 3761, Swindon, SN2 9GT
Tel: 0845 478 6345
www.education-otherwise.net

Provides support and information for families whose children are being educated outside of school. The telephone number gives recorded information on local contacts.

Equality Advisory Support Service

FREEPOST Equality Advisory Support Service FPN4431
Tel: 0808 800 0082
Textphone: 0800 800 0084
www.equalityadvisoryservice.com

The new commission is responsible for the work of the previous three equality commissions on disability, gender and racial equality. They also take on responsibility for other aspects of equality; age, sexual orientation and religion or belief, as well as human rights.

IPSEA (Independent Panel for Special Education Advice)

Hunters Court, Debden Road, Saffron Walden CB11 4AA
Advice Helpline: 0800 018 4016
Tribunal helpline: 0845 602 9579
www.ipsea.org.uk

Provides free and independent advice to parents of children with special educational needs. They offer a free representation service to some families.

Parent Partnership

Parent partnership services provide free local advice, support and information to



parents and carers whose children have special educational needs.

For details of your local parent partnership service contact your local authority or call the Contact a Family helpline on 0808 808 3555.

You can also visit www.parentpartnership.org.uk to find details of your local service.

Written by Penny Roper and Jill Davies. Updated by Angie Fenn.

Contact a Family thanks Brian Lamb for his comments and feedback.

Social networking

Contact a Family is on Facebook and Twitter. Join us at:

Facebook

[www.facebook.com/
contactafamily](http://www.facebook.com/contactafamily)

Twitter

www.twitter.com/contactafamily

Podcasts

You can download podcasts from our website at:

[www.cafamily.org.uk/news/
podcasts.html](http://www.cafamily.org.uk/news/podcasts.html)

Videos

You can watch videos on our **YouTube** channel at:

www.youtube.com/cafamily

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Getting in contact with us

Free helpline for parents and families
0808 808 3555

Open Mon–Fri, 9.30am–5pm

Access to over 170 languages

www.cafamily.org.uk
www.makingcontact.org

Contact a Family Head Office:

209–211 City Road, London EC1V 1JN

Tel **020 7608 8700**

Fax **020 7608 8701**

Email **info@cafamily.org.uk**

Web **www.cafamily.org.uk**



Registered Office: 209–211 City Road,
London EC1V 1JN
Registered Charity Number: 284912
Charity registered in Scotland No. SC039169
Company limited by guarantee
Registered in England and Wales No. 1633333
VAT Registration No. GB 749 3846 82

Other information booklets available

This guide is one of a series produced for parents and groups concerned with the care of disabled children. Our guides include:

- *Concerned about your child?* (UK)
- *Understanding your child's behaviour* (UK)
- *The tax credits guide* (UK)
- *Siblings* (UK)
- *Disabled children's services in England and Wales* (England & Wales)
- *Getting direct payments for your disabled child* (England & Wales)
- *Preparing for adult life and transition* (England & Wales)

A list of Contact a Family publications is available on request or can be downloaded from our website www.cafamily.org.uk. Parents can call our freephone helpline and ask for a copy of any of our guides.

© Contact a Family is a registered trade mark. Although great care has been taken in the compilation and preparation of this guide to ensure accuracy, Contact a Family cannot take any responsibility for any errors or omissions.

