

## Appeals • Reviews • Amendments • Changing school • Leaving school

Together with the proposed statement, the LA must send parents details of all age-appropriate local maintained schools and a list of independent schools approved by the Secretary of State.

The Code says that every effort should be made to ensure that, as far as possible, the child's views are reflected in the proposed statement and that the child understands the reasons for the proposals.

Parents can visit any school which they are thinking of naming as the school of their choice. Parents should remember to make use of the Independent Parental Supporter at this and other stages. Parents should also remember that schools have a legal duty to take reasonable steps to ensure that disabled children are not put at a disadvantage compared with other children (the 'reasonable adjustments' duty). For more detailed information on this duty see CSIE's publication *Your child's right to mainstream education – a guide for parents*.

The LA should normally make the final statement within eight weeks of making the proposed statement.

### Final statement arrives

The LA confirms or amends the proposed statement and issues the final statement to parents. The final statement includes the name of the school given by the parents – unless the LA considers that the school is inappropriate for the child's age, ability, aptitude or the special educational needs that she or he is considered to have, or other children's education is adversely affected, or the LA's resources are not being used efficiently. No school will be named if parents have made acceptable alternative educational arrangements for their child.

The LA must also tell parents of their right of appeal to the Tribunal if they disagree with the statement and/or the school named in it and the availability, without jeopardising this right, of local parent partnership and dispute resolution services.

**either**  
Parents agree with the final statement and the LA and school begin to introduce the provision required by the statement.

**or**  
Parents disagree with the final statement and discuss matters with the named officer. If unable to reach agreement, parents can make use of local parent partnership and dispute resolution services and/or decide to appeal to the Tribunal.

The final statement must contain:

- the child's family details;
- the LA's description of the special educational needs the child is considered to have;
- the special educational provision to be made, quantified in terms of hours and staffing arrangements, and the objectives to be achieved;
- the type of school the LA considers appropriate;
- the name of a particular school, unless parents have made suitable alternative arrangements;
- the arrangements for monitoring progress;
- all non-educational provision that is considered necessary (though this is not legally binding in the same way that educational provision is).

Short-term educational targets should be set by a child's school within two months of the child arriving at the school. (These targets would not be part of the statement.)

The final statement, including reports, may not be disclosed without parents' consent, except in specific circumstances.

### Appealing

If parents are not satisfied that a school has taken proper account of the Code of Practice in the early stages of assessing a child and making special educational provision (School Action and School Action Plus), they should first take the matter up with the school and then, if still unhappy, with the LA (in the case of an LA-maintained school). If they remain dissatisfied, they can make a formal complaint to the Secretary of State under Section 497 of the 1996 Education Act.

Parents can appeal to the independent First Tier Tribunal (Special Educational Needs and Disability) against the statement when it is first issued, when it is amended and if the LA refuses to amend it after a reassessment. Appeals can be against:

- the description of their child's learning difficulties;
- the provision to be made;
- the type and name of the school listed by their LA;
- the statement not naming the school.

Parents can also appeal to the Tribunal if the LA:

- refuses to carry out an assessment;
- refuses to make a statement;
- decides to stop maintaining a statement;
- refuses to re-assess a child following a parent's request if an assessment has not been made for six months;
- refuses to change the name of the school in an existing statement if a request to do so has not been made for 12 months.

Parents must apply to the Tribunal within two months of receiving notice of the LA's decision relating to the above points.

When hearing an appeal, the Tribunal asks: has the LA taken proper account of the Code and reached the right decision in the particular circumstances set out in the Acts? The Tribunal can support the LA, tell it to think again, or order it to carry out parents' wishes within specified time limits.

If the Tribunal turns down the appeal, there is no further right of appeal to the Secretary of State. Instead, parents can ask the Tribunal to review its decision if there was a problem with how it was made or they can appeal to the Administrative Appeals Chamber of the Upper Tribunal on a point of law.

Tribunal Procedure (First Tier Tribunal) (Health, Education and Social Care Chambers) Rules 2008 state that the child who is the subject of an appeal has a right to attend the hearing and may be permitted to give evidence and address the hearing. The LA should ascertain the views of the child on the issues raised by the appeal, or give reasons why it has not done so.

The LA should tell parents about organisations which can help with appeals, and any relevant free services.

### Reviewing the statement

The LA must review a child's statement at least every 12 months (the annual review). This requires a report from the school and a review meeting, organised by the headteacher, involving parents, teachers, someone from the LA and, where relevant, health and social services professionals and the careers service. Parents must be invited to the meeting and have advance copies of all reports made on their child and be invited to make contributions and comments on the reports.

A review meeting scrutinising the statement for its suitability for the child sets new targets for a child and sends a report to the LA, which decides whether to propose changes to the statement.

The review of the statement in Year 9 differs from previous reviews in its extension to matters of post-16 provision as well as ongoing schooling. It must be attended by a representative from the Connexions Service (the service which provides support for all 13-19 year olds in making the transition to work and adult life). The social services department should also be invited to send a representative. The meeting should result in a transition plan (see page 11) for the child which outlines the first steps necessary in planning for the child's transition to post-16 provision. The transition plan must be updated at each subsequent annual review.

There is no legal requirement for a child to attend annual reviews, but the Code stresses the importance of involving children and young people in all the decision-making processes that occur in their education, including the setting of learning targets, IEPs, the choice of schools, assessments and all review processes. This is particularly important in establishing transition arrangements from Year 9 onwards.

### Amending the statement

The annual review may result in the LA proposing changes to the statement and even a change of school. The LA tells parents by letter of proposed changes, though at this stage the school should not be specified. Parents have 15 days in which to tell the LA what they think of the changes. Parents can request a meeting and can name their preferred maintained school. LAs must send information to the schools being considered. They must inform parents of the availability of parent partnership and dispute resolution services and, whether or not they use these, of their right to appeal to the Tribunal. The LA must make its final decision within eight weeks of proposing the changes.

### Change of school

At any time, parents can request a change of school named in the statement to a preferred LA maintained school. The LA is under a duty to agree provided that the request is made more than 12 months after:

- a similar request;
- the issue of a final copy of the statement;
- the issue of an amended statement; or
- the end of an appeal to the Tribunal over the provision specified in the statement;

and provided that:

- the needs that the child is considered to have can be properly met;

- other children's education is not adversely affected;
- and resources are used efficiently.

If the LA does refuse, parents can appeal to the Tribunal. If the LA decides not to comply, it must inform the parent in writing of:

- that decision;
- parents' right to appeal.

All young people are legally entitled to free, full-time education up to the age of 19. The LA remains responsible for maintaining the statements of young people considered to require special educational provision who stay on at school after the age of 16 until the end of the academic year in which their 19th birthday falls.

However, the statement of a young person who leaves school between 16 and 19 may lapse. In its place – but without the legal force of a statement – the transition plan should set out agreed arrangements for making the special provision seen as necessary for a young person in further or higher education, or in social services provision.

It is the responsibility of the Connexions Service, working with the LA and with the agreement of the young person and parents, to ensure that where a statement of special educational needs has been issued, a copy of the statement, together with the most recent annual review and the transition plan, is passed to the social services department, the college to be attended and, when necessary, the Learning and Skills Council (LSC).

The Connexions Service also has a responsibility, under the Learning and Skills Act 2000 amended by the Education and Skills Act 2008, to ensure that all young people who may have difficulty in transferring to further education or training post-16, including young people seen as requiring special educational provision and who do not have statements, have a needs and provision assessment.

Under the Learning and Skills Act, the LSC must 'have regard to' the post-16 educational needs which disabled students and students experiencing difficulties in learning are considered to have. This mainly entails making sure that there are sufficient further education opportunities for such students. It may extend to funding places in a specialist college if suitable provision cannot be made by her or his local college.

The LSC is responsible for all post-16 education and training and academic and vocational courses (except higher education). From April 2010 this responsibility will transfer to LAs. Other types of college course, and school provision up to the age of 19, are already the LA's responsibility. These options should be considered in drawing up a young person's transition plan.

If parents would like their child to remain at school after the age of 16 but the LA considers that a placement at a further education college is more appropriate, the LA must write to the parents informing them of their intention to cease to maintain the statement, of the availability of dispute resolution services and, whether or not they use these, their right to appeal to the Tribunal.

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### Where to find out more

Your local authority's children and young people's services should be your first source of advice and help.

### Organisations

The following national organisations can also provide information and advice, or pass you on to someone who can.

**Centre for Studies on Inclusive Education (CSIE)**  
New Redland Building, Coldharbour Lane, Frenchay, Bristol BS16 1QU; phone 0117 328 4007; [www.csie.org.uk](http://www.csie.org.uk)  
Publishes large number of free and inexpensive leaflets and reports on inclusive education to help parents and professionals; organises conferences and supports parents' groups, students, schools and LAs. Also publishes the 'Index for Inclusion', written by Tony Booth and Mel Ainscow, which helps ordinary schools break down barriers to learning and participation for all pupils.

**Department for Children, Schools and Families (DCSF)** Sanctuary Buildings, Great Smith Street, London SW1P 3BT; phone 0870 000 2288; email [info@dcsf.gsi.gov.uk](mailto:info@dcsf.gsi.gov.uk); [www.teachernet.gov.uk/wholeschool/sen](http://www.teachernet.gov.uk/wholeschool/sen)

**Department of Health** Richmond House, 79 Whitehall, London SW1A 2NS; phone 020 7210 4850; email [dhmail@dh.gsi.gov.uk](mailto:dhmail@dh.gsi.gov.uk); [www.dh.gov.uk](http://www.dh.gov.uk)

**Equality and Human Rights Commission** 3 More London, Riverside, Tooley Street, London SE1 2RG; phone 0845 604 6610; email [info@equalityhumanrights.com](mailto:info@equalityhumanrights.com); [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

**National Assembly for Wales** Cathays Park, Cardiff CF10 3NQ; phone 0845 010 3300; email [webmaster@wales.gsi.gov.uk](mailto:webmaster@wales.gsi.gov.uk); [www.wales.gov.uk](http://www.wales.gov.uk)

**Children's Legal Centre** University of Essex, Wivenhoe Park, Colchester, Essex CO4 3SQ; phone 01206 877910; email [clc@essex.ac.uk](mailto:clc@essex.ac.uk); [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)  
Runs free advice service on all aspects of law and policy affecting children and young people in the UK, including special education; publishes wide range of guides including a monthly *Childright* magazine.

**Council for Disabled Children** 8 Wakley Street, London EC1V 7QE; phone 020 7843 1900; email [cdc@ncb.org.uk](mailto:cdc@ncb.org.uk); [www.ncb.org.uk/cdc](http://www.ncb.org.uk/cdc)  
Offers free information service; issues relevant publications and listings of organisations concerned with specific disabilities or learning difficulties.

**Network 81** 1-7 Woodfield Terrace, Stansted, Essex CM24 8AJ; phone 0845 077 4055; email [info@network81.org](mailto:info@network81.org); [www.network81.org](http://www.network81.org)  
National network of parents' groups supporting families with disabled children and those experiencing learning difficulties and offering advice and information by phone and links with other groups and individuals; issues publications and organises conferences and training days.

**Independent Panel for Special Education Advice (IPSEA)** 6 Carlow Mews, Woodbridge, Suffolk IP12 1EA; phone 0800 018 4016; [www.ipsea.org.uk](http://www.ipsea.org.uk)  
Offers advice on LAs' duties towards children and young people seen as requiring special educational provision; second professional opinions on those requirements, and detailed advice to parents.

**Parents for Inclusion** 336 Brixton Road, London SW9 7AA; phone helpline 0800 652 3145; email [info@parentsforinclusion.org](mailto:info@parentsforinclusion.org); [www.parentsforinclusion.org](http://www.parentsforinclusion.org)  
Support group run by parents for parents, offering free advice and support about special educational provision and inclusion.

**Other sources of information**  
The following organisations and government departments answer queries and issue publications concerning the law on special educational provision.

**Department of Health** Richmond House, 79 Whitehall, London SW1A 2NS; phone 020 7210 4850; email [dhmail@dh.gsi.gov.uk](mailto:dhmail@dh.gsi.gov.uk); [www.dh.gov.uk](http://www.dh.gov.uk)

**Department of Health** Richmond House, 79 Whitehall, London SW1A 2NS; phone 020 7210 4850; email [dhmail@dh.gsi.gov.uk](mailto:dhmail@dh.gsi.gov.uk); [www.dh.gov.uk](http://www.dh.gov.uk)

**Equality and Human Rights Commission** 3 More London, Riverside, Tooley Street, London SE1 2RG; phone 0845 604 6610; email [info@equalityhumanrights.com](mailto:info@equalityhumanrights.com); [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

**National Assembly for Wales** Cathays Park, Cardiff CF10 3NQ; phone 0845 010 3300; email [webmaster@wales.gsi.gov.uk](mailto:webmaster@wales.gsi.gov.uk); [www.wales.gov.uk](http://www.wales.gov.uk)

**Learning and Skills Council** Cheylesmore House, Quinton Road, Coventry CV1 2WT; phone 0870 900 6800; email [info@lsc.gov.uk](mailto:info@lsc.gov.uk); [www.lsc.gov.uk](http://www.lsc.gov.uk)

**Connexions National Unit** Contact through the DCSF (see above); young people can ring 080 800 13219 or via [www.connexions-direct.com](http://www.connexions-direct.com).

**Skill National Bureau for Students with Disabilities** Unit 3, Floor 3, Radisson Court, 219 Long Lane, London SE1 4PR; phone 0800 328 5050; email [info@skill.org.uk](mailto:info@skill.org.uk)

**Publications**  
The following publications are available free by phoning the DCSF publications centre on 0845 6022260 or emailing [dcsf@prolog.uk.com](mailto:dcsf@prolog.uk.com). You can also access them at <http://publications.teachernet.gov.uk>

- SEN Code of Practice
- SEN: A Guide for Parents and Carers
- Inclusive Schooling – Children with special educational needs (Statutory Guidance, ref. DFES/0774/2001)
- SEN Toolkit 2001

You can obtain the following guide from the Tribunals website ([www.sendist.gov.uk/Parents/index.htm](http://www.sendist.gov.uk/Parents/index.htm)):

- How to appeal an SEN decision: A guide for parents

The following publications are useful for understanding what schools must do to avoid discriminating against disabled pupils and are relevant to children considered to require special educational provision. They are available from the Equalities and Human Rights Commission ([www.equalityhumanrights.com](http://www.equalityhumanrights.com)):

- DDA Code of Practice for Schools
- DDA Code of Practice Post-16

# Assessments & statements

CSIE Summary, updated October 2009

## the right to education in mainstream schools

CSIE summary of Part 4 of the Education Act 1996 as amended by Part 1 of the Special Educational Needs and Disability Act 2001

In May 2001, legislation was passed which introduced significant amendments to the law in England governing the education of disabled children and those experiencing difficulties in learning. This legislation, which still forms a core part of the statutory framework for inclusion, strengthened the right to mainstream education by removing two of the conditions for mainstream inclusion for pupils for whom statements of special educational needs have been made, where parents have not asked for a particular school. In this context, and in light of concerns about the statementing process,<sup>1</sup> many mainstream schools have been developing more inclusive provision for all children and, by now, a number of local authorities are no longer relying on statements for making this provision available. Where this is not happening, it may be necessary to engage in the separate, lengthy and complex process of assessment and obtaining a statement.

This CSIE summary covers the assessment and statementing procedures relating to pupils seen as requiring special educational provision as set out in Part 4 of the 1996 Education Act amended by the Special Educational Needs and Disability Act 2001.

<sup>1</sup> Audit Commission (2002), *Statutory Assessment and Statements of SEN: in need of review?*



### Part 4, Education Act 1996

- The main aspects of Part 4 are:
- a separate Code of Practice giving detailed practical guidance to schools and local authorities (LAs) on how to identify, assess, record, provide and review the special education considered necessary – both with and without statutory statementing procedures;
  - a normal limit of 26 weeks to complete the legal process for identifying and assessing a child and, where appropriate, issuing a legally-binding statement on the special educational provision that should be made;
  - parents of children for whom a statement has been issued are able to say which maintained school they prefer their child to attend and the LA must agree – subject to certain conditions;
  - the maintained school named on a child's statement of special educational needs must accept that child;
  - LAs have to carry out specific procedures when reviewing statements;
  - an extension of parents' rights of appeal against LA decisions on assessments and statements, to an independent Tribunal;
  - duties on schools to draw up, publish and report on their Special Educational Needs Policy.

LAs have a duty to identify, assess and provide for children for whom a statement of special educational needs is considered necessary. This duty covers children from the age of two – and before that if a child is considered by his or her parents, the child health services or social services to have special needs.

### Part 1, Special Educational Needs and Disability Act 2001 (SENDA 2001)

- Part 1 of SENDA 2001 came into force in January 2002 in England. The amendments to the 1996 Act include:
- a strengthened right to education in mainstream schools for children who have a statement of special educational needs;
  - a duty on LAs to provide and advertise parent partnership services;
  - a duty on LAs to make arrangements for resolving disagreements between parents and schools and between parents and the LA, without affecting parents' right of appeal to the Tribunal;
  - a duty on schools to inform parents when any special educational provision is made for their child;
  - tightened arrangements for Tribunal appeals, including time limits for the implementation of the Tribunal's decisions.

Accompanying these legislative changes from January 2002 were the introduction of:

- a Code of Practice which supersedes the original edition and places more emphasis on within-school teaching and curriculum approaches to special provision and on parent and pupil participation in assessment and decision making;
- Statutory Guidance on the practical operation of the new framework for inclusion;
- an 'SEN Toolkit' of practical guidance and resources to accompany the code.

In September 2002, Part 2 of SENDA came into force, accompanied by two Codes of Practice produced by the then Disability Rights Commission (DRC) – one for schools and one for post-16 education. This part of SENDA amended the 1995 Disability Discrimination Act to cover access to education. It made it unlawful to discriminate against disabled pupils in all aspects of school life. The SEN Tribunal was renamed the SEN and Disability Tribunal (SENDIST) and its remit extended to cover cases of disability discrimination. It is now the First-Tier Tribunal (Special Educational Needs and Disability). The work of the DRC is now covered by the Equality and Human Rights Commission.

(Note: there are differences in the way the law and Code apply in Wales. There are separate laws covering Scotland and Northern Ireland.)

### The duty to include in the mainstream

Under Part 1 of SENDA 2001, LAs have a duty to include in mainstream schools all children who are considered to require special educational provision and for whom a statement has not been made. In these cases, parents should be informed that the school is making special educational provision for their child. Children for whom a statement of special educational needs has been issued should be included in mainstream schools, so long as:

- other children's education is not adversely affected (the LA can only rely on this exception if it shows that there are no reasonable steps that can be taken to prevent such an effect);
- parents are in agreement.

However, an LA may include a child – even when parents want a special school – if the special school is not appropriate. In this situation parents can appeal to the Tribunal. Parents can also name the school they want their child to go to when the statement is first issued, and then on an annual basis. If the LA does not agree, parents can appeal (see Change of school on page 10).

### What parents should expect from their child's school

- A school must:
- provide the name of the teacher responsible for special educational provision (usually called the SEN co-ordinator);
  - explain its arrangements for deciding which children it considers to need help and how it will be given;
  - describe how it will work closely with parents.

### What parents should expect from their LA

- An LA must:
- inform parents of relevant advice, information and services in the area;
  - make arrangements for parent partnership and dispute resolution services and make these known to parents;
  - make assessments and statements within the proper time limits (see following pages);
  - write clear and thorough statements which set out what are believed to be a child's educational and other needs, the objectives to be achieved, the provision to be made and the arrangements for monitoring and review;
  - ensure that there is an annual review of the provision made and that educational targets are monitored and updated;
  - at appropriate stages, inform parents of their rights of appeal (including time limits for lodging an appeal) and the fact that these rights are not affected if parents choose to use dispute resolution procedures.

This leaflet provides a brief introduction to the Code of Practice followed by a step-by-step guide to the procedures for assessment and making a statement under Part 4 of the 1996 Act and what is expected under reviews and amendment of the statement. It outlines the roles of parents and children in these procedures and explains, in brief, how to appeal against any decision or aspect of the procedures with which they disagree.

### The Code of Practice (2001)

Schools and LAs must have regard to the 2001 Code of Practice to plan how they will make special educational provision for a child throughout her or his school career. Most special educational provision will be made in ordinary schools without a child having to undergo statutory assessment or be issued with a statement, with outside specialist help if necessary. The Code recommends a graduated approach to special educational provision, bringing increasing specialist expertise where necessary, depending on the particular difficulties a child may be experiencing. Such difficulties may exist before a child goes to school – in which case the LA, along with health services and early years settings, should become involved at this early stage, having regard to the Code.

The Code emphasises that children for whom special educational provision is seen as necessary, including those with statements, should usually:

- be educated alongside other children in ordinary schools;
- have full access to a broad and balanced education which includes the National Curriculum.

In addition, parents' knowledge, views and experience are seen as vital and the tasks of assessing and providing the special education seen to be required will be most successful when:

- the school, the LA and other professionals work in partnership with parents;
- those responsible take into account a child's wishes in the light of her or his age and understanding;
- there is close co-operation between all the agencies concerned and a multi-disciplinary approach to resolving issues.

### A graduated approach

The Code recommends that schools and LAs should take a graduated approach to special educational provision. It suggests gradually increasing interventions into teaching and curriculum referred to as School Action and School Action Plus before embarking on the statutory assessment and statementing procedures. For younger children these interventions are called Early Years Action and Early Years Action Plus. However, the Code does not insist on schools following this particular pattern, so long as a school's own scheme recognises the various levels of difficulty a child may experience, the different responsibilities for assessing and making the provision considered necessary, and the numerous types of provision available. Parents and pupils are entitled, and expected, to be fully involved and consulted at all stages.

The early stages of assessing a child and making special educational provision should be based within the school setting. The final procedures involve *statutory requirements* with responsibility shared between school and the LA.

Approach	Action	Who organises?
Identification	Class teacher or form/year tutor identifies a child as requiring special educational provision, based on the child making inadequate progress despite differentiation of learning opportunities.	School
School Action	School informs parents that their child is considered to require special educational provision. SEN co-ordinator and colleagues gather information about the child, including from parents. SEN co-ordinator organises special educational provision and ensures, as appropriate, that an individual education plan (IEP) is drawn up, working with the child's teachers to devise school-based interventions.	School
School Action Plus	SEN co-ordinator brings in outside specialists to advise on further changes that could be made within the school to ensure the child's education.	School
Statutory assessment	<b>LA considers the need for statutory assessment and, if appropriate, makes a multi-disciplinary assessment.</b>	<b>School and LA</b>
Making a statement	<b>LA considers the need for a statement of special educational needs and, if appropriate, makes a statement and arranges, monitors and reviews provision.</b>	<b>School and LA</b>

## Procedures for assessments and statements under the 1996 Act and SENDA 2001

### Proposing an assessment

School, health services or social services department considers that a child ought to be assessed – and, after consulting with the parents, requests an assessment by the LA. A parent may also request a statutory assessment.

The LA considers whether to carry out a statutory assessment of a child and writes to the parents:

- informing them that they are considering whether to make a statutory assessment (where it was not the parent who requested this);
- explaining the procedures to be followed;
- providing the name of an LA officer who can give more information (a 'named officer');
- explaining parents' right, within a stated time limit, to agree or disagree with the proposal and to send in written evidence within at least 29 days;
- explaining the local parent partnership services which can give information and advice and arrange access to available Independent Parental Supporters (see below).

The LA also tells:

- the child's headteacher
- the local social services department
- the district health authority.

**or**  
Parents ask the LA to assess their child. The LA must take the request seriously and act immediately. (The LA can refuse only if the child has been formally assessed within the previous six months or, having looked at all the evidence, it considers an assessment is 'unnecessary'. In this case, the LA must inform parents of their right to appeal, the availability of local dispute resolution services, and the fact that their use of these does not affect their right to appeal.)

Parents have at least 29 days in which to tell the LA what they think of its proposal, to make representations, submit evidence, and name people they want the LA to consult. The limit of 29 days is waived if the parents request an assessment.

Schools should seek the views of parents and of the child 'as appropriate to their age and understanding'.

The Code says that the provision of Independent Parental Supporters is an expected role of local parent partnership services. An Independent Parental Supporter is someone who is available to advise, support and attend meetings with parents throughout the whole process of assessment and making a statement, and is independent of the decision making process that determines the type and level of support for a child. This must be someone parents can trust, and could be a professional, someone from a voluntary organisation or parents' support group, a friend or relative. Referral to an Independent Parental Supporter by the parent partnership service should be made in negotiation with parents.

The LA has six weeks in which to decide whether to go ahead with the assessment. (This includes the 29 days in which parents may make representations.)

### Deciding to assess

Within six weeks, the LA decides to go ahead with the assessment and tells parents by letter of that decision and the reasons for it. The LA must also inform parents:

- of their right to appeal to the Tribunal;
- that their child may be called for an examination or assessment and that, if so, the parents have a right to attend;
- of the name of an LA officer who can give more information;
- of their right to submit further information to the LA.

**or**  
The LA decides not to go ahead and tells parents by letter of the decision and the reasons for it. The LA must also inform parents of the availability of dispute resolution services and, whether or not they use these services, their right to appeal to the Tribunal.

### Can I complain or appeal?

*If the LA:*

- *delays a decision beyond six weeks, you can get the named officer to sort things out; and if the matter is still not resolved, you can complain directly to the Secretary of State for Children, Schools and Families.*
- *decides not to carry out an assessment at all, you can appeal to the First Tier Tribunal (Special Educational Needs and Disability) which can support the LA or order it to make an assessment. You must appeal within two months of the LA's decision not to go ahead.*

### Assessment begins

The LA has 10 weeks in which to carry out the assessment.

The LA consults parents, headteacher and teachers, medical, psychological and social services staff, and anyone else who knows the child well and can give useful advice.

The Code specifies that the LA should also find out and take account of the child's own views.

Parents have the right to attend any or all of the examinations (eg interviews, tests, medical and other assessments) arranged for the purposes of the assessment. They can also submit any information they wish about their child, including independent assessments. The LA must copy all such information and give it to all those professionals who see the child.

The time limits by which the different stages of assessment and statementing should be completed may be extended in certain specified circumstances, for example, when parents are away from the area for lengthy periods, the child does not keep an appointment for an examination or test, or parents want more time to provide advice for the assessment or to comment on the draft statement.

### Assessment completed

After completing the assessment, the LA has a further two weeks in which to send parents full details of its decision on whether or not to make a statement – so the maximum time between assessment and notifying parents of the outcome is 12 weeks.

The decision to issue a statement is usually made when the LA believes that the educational provision that is required cannot be offered by mainstream schools within the resources normally available to them.

**If yes to statement**  
The LA sends parents a copy of the proposed statement, together with copies of all the reports and advice which the LA used to reach its decision about the type of provision recommended in the statement. The statement should be clear, concise and easily understood, with all technical terms and jargon fully explained. At this stage, the statement will not specify a school. Along with copies of the proposals, the LA will also inform parents in writing of:

- arrangements for parents to express their choice of school;
- parents' right to make representations about the content of the statement;
- parents' right to request a meeting with an LA officer to discuss the statement, and with any other relevant professionals considered necessary as a result of this meeting;
- parents' right to appeal, with time limits.

**If no to statement**  
The LA tells parents by letter of its decision and why – and of the availability of parent partnership and dispute resolution services and, whether or not they use these, of their right of appeal. The Code says that the LA should also consider issuing to parents and the school a 'note in lieu of a statement' setting out the reasons for its decision, the supporting evidence, and all the advice received during the assessment.

### Can I appeal?

*You can appeal to the First Tier Tribunal (Special Educational Needs and Disability) which can support the LA, order it to make a statement, or tell it to think again. You must appeal within two months of the LA's decision not to issue a statement.*

### Proposed statement arrives

Parents have 15 days in which to:

- tell the LA what they think of the proposed statement;
- meet and discuss matters with LA officers (including the named officer) and any professional who gave advice in compiling the statement;
- express a preference for the school they want their child to attend.

Parents can ask for any number of further meetings with the LA within 15 days of any previous meeting – and then have another 15 days after the final meeting to send the LA any more comments.

If the LA decides against the parents' first choice of school, they should inform the parents in writing of that decision, of the availability of parent partnership and dispute resolution services and, whether or not they use these services, their right to appeal to the Tribunal.