



Parent/Carer Information

Special Educational Needs and Disabilities

Introduction

This information leaflet provides “at a glance” information to parents and carers about the Special Educational Needs (SEN) framework. If you need more detailed information or independent specialist advice, please contact Angel Eyes or the Children’s Law Centre and we will be happy to help (contact details are below).

Special Educational Needs (SEN)

The law defines a **SEN** as “a learning difficulty which calls for special educational provision”. A “**learning difficulty**” occurs where a child has “significantly greater difficulty in learning than the majority of the children of the same age”. This will be the case when the difficulty is more than a minor problem and the child may be falling behind at school when compared to other children. It can be a short-term or a long-term difficulty.

A learning difficulty can also include a disability, such as a visual impairment, where a child may encounter barriers to accessing education in a mainstream school.

If you think your child is having difficulty in learning for any reason or will have difficulty when they start school, and they may need help to overcome barriers to progress in education, then you should **trust your own feelings** on the matter as you know your

child best. The SEN legal framework, which governs special educational provision, should be able to provide a solution.

Special Educational Provision

Special Educational Provision is any kind of educational provision that is **additional** to or **different** from that generally available to children of the same age in an ordinary school. Examples include classroom assistance, small group teaching, input from Qualified Teachers for the Visually Impaired (QTVI), literacy support, behaviour support, autism support, adapted teaching materials, allied health professional therapies such as speech and language therapy and occupational therapy, where these enable access to education.

SEN Register

When a child has been identified as having a SEN that requires intervention, they will be placed on the **SEN Register** in school. The SEN register records what “stage” of intervention a child is at and is managed by the Special Educational Needs Coordinator in school (SENCo).

The stages come from the “**Code of Practice on the Identification and Assessment of SEN**”. The Code is statutory guidance and there is a legal duty upon decision-makers to have regard to it. The current Code has 5 stages. However, a new SEN framework, which has **3 stages**, is gradually being rolled out by the Department of Education and the Education Authority (EA). Schools are now recording children’s needs and progress under the new 3-stage system. Educational targets are set and outcomes are monitored for children on the register. The “Individual Education Plan” (IEP) which has previously been used to record targets and gather outcomes data is being replaced by the “Personal Education Plan” (PLP).

“**IEP**”: Individual Education Plan – old system, content varies across schools

“**PLP**” Personal Learning Plan – new system, standard format, better recording of data

Old Stages

Stage 1: Child placed on register, teacher monitors, there is no IEP

Stage 2: Information gathered from different sources, IEP Created, SENCo monitors

Stage 3: School intervention + EA/HSCT Support (e.g. QTVI, Literacy Support)

Stage 4: Statutory assessment (reports called “advices” are gathered by the EA)

Stage 5: Statement of SEN (A legally binding document, setting out provision)

New Stages

Stage 1: Child placed on register. SENCo monitors school provision. PLP created.

Stage 2: School provision + EA Pupil Support Service or HSCT Service

Stage 3: Statement of SEN

The statutory assessment under the new special educational needs and disability (SEND) framework will be a “process” rather than a “stage”. Children who are undergoing a statutory assessment will be recorded under Stage 2.

Partnership with Parents

It is important that parents and carers are aware if their child has been placed on the SEN Register and if so, at what Stage, to enable parents and carers to monitor their child's progress and contribute to Personal Learning Plans through **partnership working**, which is required under the Code of Practice.

Voice of the Child and Best Interests of the Child

The SEN legislation and Code of Practice require that when decisions are being made about SEN, the child should be enabled to give their views and to participate in accordance with their age and maturity. Child-friendly information should be provided to enable the child to understand the decisions that are being made. If a child has a disability they should be given disability and age-appropriate assistance to enable participation. The child's views should be given due weight within the decision-making process. In all decisions taken, the best interests of the child should be a primary consideration.

Stages of the Code of Practice

The stages of the Code of Practice are not intended to be a set of hurdles that a child must cross. The child should be at the stage which is appropriate to meet their needs. Generally speaking, if a child is identified initially by school as having SEN that requires special educational provision to be made and monitored, they might be placed on the new **Stage 1**. A PLP will be created and reviewed twice per academic year.

Children who are not able to make sufficient educational progress without more specialist help in addition to school resources, may require additional intervention to be provided by the EA or the HSCT at the new **Stage 2** (old Stage 3), for example, input from a specialist qualified teacher or speech and language therapist.

If it appears that **despite school intervention with the help of external support, a child is unable to make adequate progress, and that school may require further**

external resources, then a statutory assessment may be necessary in order for the EA to determine what special educational provision is needed.

A statutory assessment can be initiated by the EA, requested by the school or requested by a parent. The EA have created an online portal via their website to enable parents to make online requests and submit relevant paperwork:

<https://www.eani.org.uk/request-for-statutory-assessment>

When a request for a statutory assessment is made, the EA will consider whether to carry out an assessment based upon the evidence available, including that provided by parents/carers and school.

If the EA refuses to carry out a statutory assessment to determine the provision that the child may need, it will notify the parent of this refusal. This triggers a parental right of appeal to the Special Educational Needs and Disability Tribunal (SENDIST) which must be exercised within **2 months** of receipt of the EA's notification.

If the EA decides that it will carry out a statutory assessment, then it will seek evidence in the form of "advices" (reports) from a variety of sources, including parents, school, an EA Educational Psychologist, health staff and any other relevant source. Once all of the evidence is available, the EA will decide whether or not to make a statement of SEN at the new **Stage 3** (old Stage 5).

If the EA is refusing to make a statement it will issue a "Note in Lieu" which will summarise the child's SEN from the advices received and will describe the support which is recommended to be **arranged by the school**.

Since the issue of a Note in Lieu is a refusal to make a statement, there is a parental right of appeal against this refusal, again with a **2-month time limit**.

If the EA decides to make a statement, it will issue a **proposed (draft) statement** to parents and ask them to nominate the school they wish their child to attend (which the EA will then consult) and also will seek parental views on the contents of the statement.

The contents of a statement of SEN are set out in 6 parts:

Part 1: Introduction

Part 2: Special Educational Needs

Part 3: Special Educational Provision

Part 4: Placement

Part 5: Non-Educational Needs

Part 6: Non-Educational Provision

Upon receipt of the proposed statement **it is critical for parents and carers to seek advice** about the EA's proposed special educational provision. It is particularly important to ensure that the EA has fulfilled its legal obligation to clearly and thoroughly **specify the special educational provision in Part 3 of the statement**. Vague, unclear wording which is ambiguous or difficult to interpret, is unlawful. Provision that

is properly and clearly set out (“specified”) is lawful and **legally enforceable**. For example, wording such as “*John will have access to a level of adult assistance*” is vague and meaningless. Wording such as “*John will have 20 hours of 1:1 classroom assistance*” is specific and enforceable.

Once parents have made their representations to the EA, a final version of the statement will be issued with all of the needs and provision set out. If a parent is unhappy with the content of the **final statement**, they will have the right to appeal to SENDIST, within **2 months** of receipt of the final statement.

The EA is legally responsible for arranging the provision that is set out in a statement of SEN at the new Stage 3 (old Stage 5).

The statement is monitored through an Annual Review arranged by the child’s school.

Appeals to the SENDIST

If a parent decides to file an appeal to the SENDIST against a decision that the EA has made, they can continue to stay in touch with the EA to see if any disagreement can be informally resolved without the need for an appeal hearing.

Parents also have the right to contact the Dispute Avoidance and Resolution Service: [DARS](#), which is designed to facilitate informal discussions to try to resolve disagreements between parents and school, or parents and the EA, about special educational provision. Please note however, that the 2-month time limit for appeal will continue to run and that it may be necessary to file an appeal to SENDIST within the time limit, pending the outcome of any informal discussions. The appeal can be withdrawn at any stage if it is no longer required.

The grounds of appeal to SENDIST are:

- Refusal of statutory assessment
- Refusal to make a statement
- Contents of Part 2, 3 and/or 4
- Amendment to a statement
- Refusal to amend after statutory reassessment
- Refusal to change named school in Part 4
- Cessation of statement

Time limit to appeal – 2 months from receipt of notice of the relevant decision.

Here is a link to the appeal form which can be printed out: [SEN APPEAL FORM](#)

Note: the time limit for a disability discrimination claim to SENDIST is 6 months from the date the discrimination happened (or the date of knowledge about the incident/s, if later). This leaflet does not cover disability discrimination but if you require advice on this issue, please contact us.

Free Specialist Advice and Information

If you would like free independent specialist information or advice on whether to appeal, how to appeal, or any other steps that you should take in relation to securing that your child's special educational needs are identified and met, please contact Angel Eyes NI or the Children's Law Centre:

Angel Eyes NI

Address: Innovation Factory, Forthriver Business Park, 385 Springfield Road, Belfast, BT12 7DG

Phone: 07775 873072

Email: info@angeleyesni.org

Website: <https://www.angeleyesni.org/>

Children's Law Centre

Address: Children's Law Centre, Rights House, 127-131 Ormeau Road, Belfast, BT7 1SH

Phone: 028 90 245704 **Freephone Advice Line:** 0808 808 5678

Email: info@childrenslawcentre.org

Website: <https://childrenslawcentre.org.uk/>

Useful References

[Education \(NI\) Order 1996](#) – Duties to identify, assess and provide for SEN

[Special Educational Needs and Disability \(NI\) Order 2005](#) – disability duties

[Education \(SEN\) Regulations \(NI\) 2005](#) – assessment, statements, timescales

[SENDIST Regulations \(NI\) 2005](#) – Tribunal procedure

[Code of Practice on the Identification and Assessment of SEN](#) – 5 stages

[Supplement to the Code of Practice](#) – disability equality / inclusion

[SEND Act \(NI\) \(2016\)](#) – new SEN framework - awaiting full commencement

Revised SEND Regulations – new SEN framework – pending

Revised Code of Practice – pending – 3 stages