



Special Educational Needs – Wales

Information for families

Wales

Introduction

All parents want their children to do well at school. Some children may need more support than others to achieve their potential. 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 is receiving.

Contents

Glossary.....	3
What are special educational needs?.....	4
Support for children under two	4
Welsh language	5
School Action, School Action Plus, and Individual Education Plans.....	5
Statutory assessments	6
Statement of special educational needs	9
Choosing a school.....	12
Transport.....	16
Annual reviews.....	17
Transition planning for post-school life	20
Action you can take if you're unhappy.....	21
Pupils with medical needs	23
Parent partnership services available.....	25
Pupil participation	25
Disability discrimination.....	27
Documents for further information and advice	28
Useful organisations.....	29

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 are being developed to help all families with young children access services and information they need close to home. These centres aim to provide joined up services such as health, education, family support and childcare. Families can also access help from multi-disciplinary teams of professionals.

DDA Disability Discrimination Act 1995.

EBD Emotional and behavioural difficulties.

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

ESTYN A government department responsible for the inspection of all schools in Wales, see www.estyn.gov.uk

ESW Education social worker (also known as 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.

LEA Local education authority. Local government body with a wide range of responsibilities for children's education. For children with special educational needs, this includes carrying out statutory assessments and maintaining statements of special educational needs.

LSA Learning support assistant (also known as teaching assistant). A person who provides support for an individual pupil, or a group of pupils with special educational needs and/or disabilities.

MLD Moderate learning difficulties.

NAfW National Assembly for Wales

PMLD Profound and multiple learning disabilities

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

SENDIST An independent Special Educational Needs and Disability Tribunal that hears parents' appeals against LA decisions on their child's special education needs, or parents' claims of disability discrimination against their children in schools.

SENTW The Special Educational Needs and Disability Tribunal Wales.

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.

WAG Welsh Assembly Government

What are special educational needs?

Special educational needs (SEN) have 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. 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 from that given to other children without 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, giving examples to illustrate your concerns, and ask what support can be put in place. You may wish to contact other support agencies listed in the 'Sources of advice and information' section at the end of this guide.

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 staff at school.

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 education authority (LEA) for

a statutory assessment. If you request a statutory assessment for your child when they are under two years of age, the LEA 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 LEA 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.

Welsh language

The SEN Code of Practice for Wales clearly outlines the responsibilities of LEAs and schools under the Welsh Language Act 1993. This means that English and Welsh languages should be treated equally. Parents should have the opportunity to communicate in the language of their choice. Sections 1:7 to 1:15 of the Code of Practice give further details of how meetings, assessments, support services and children's education should be provided in relation to the Welsh Language.

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

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, because of their disability, cannot use the educational facilities which other children of a similar age use.

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.

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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 Early Years). You should be consulted as part of the review process.

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

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 LEA. Other agencies, such as health and social services, can also make a request. See page 8 for an example letter you can adapt to request a statutory assessment for your child.

If you make a request, your letter should include the reasons why you want an assessment and any supporting information.

If you request a statutory assessment, the LEA 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.

After the local education authority (LEA) receives a request

After receiving a request for a statutory assessment, the LEA will consider whether to make a statutory assessment. They must write to you to inform you that they are considering making a statutory assessment. They should also set out the procedures involved and tell you of your rights to submit evidence, which can be submitted in English or Welsh. The LEA 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 LEA will also give you details of a named officer at the LEA who you can contact for more advice and details of your parent partnership service. (See page 25 for information about this service.)

Time frame for deciding if an assessment is required

The LEA has six weeks to decide whether or not to make a statutory assessment. These 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 for an assessment from a parent, the LEA must comply unless:

- they have made a statutory assessment within six months of 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).

Contributing to an assessment

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

Parental advice

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

The LEA should send you guidelines to help you record your advice. If you are having difficulty in writing your views, you can ask your named officer to arrange for someone to record them for you as well as any information you want to provide. Your parent partnership service may be able to help you prepare your advice. Some voluntary organisations, such as Network 81 and IPSEA, also do this.

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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 full 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 my child needs more help than the school (*give the name of your child's school*) can provide because: *Say what your 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 six weeks. I look forward to hearing from you soon.

Yours faithfully,
Your name & signature

Some things you may want to consider when providing your advice:

- any health needs your child has
- your child's physical, communication and personal skills
- what your child is like at home, for example their behaviour, any hobbies and interests, relationships with family members
- your child at school, for example, what they enjoy 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 education authority (LEA) has received all the advice

When they have received all the advice, the LEA must decide whether to issue a statement. The LEA has 10 weeks to make the statutory assessment and decide whether to issue a statement.

Reassessments

Sometimes it is necessary to request a reassessment of your child's needs when they already have a statement. You can request a reassessment if:

- your child's needs have changed since the last statement was issued
- you think your child needs different or more help than is outlined in the statement.
- you want your child to attend a different kind of school (for example you want to move your child from a mainstream school to a special school).

If the LEA decides not to issue a statement or amend an existing statement, it must notify the school and you 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 LEA decides that your child's special educational needs can be met by the school without the need for a statement, it may issue a note instead 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 LEA issues a note in lieu of a statement, it must also provide details of how you can appeal and details of a disagreement resolution service (see page 21).

Requesting a reassessment

You can request a reassessment in the same way as requesting a statutory assessment; by you and/or the school writing to the LEA. You can use the letter on page 8, but remember to amend it to say that you are requesting a reassessment and include the statement 'I am making this request as is my right under Section 328 of the Education Act 1996'. You should also include your reasons for wanting a reassessment and explain why the statement is no longer suitable. The process and timescales involved are the same as for requesting a statutory assessment.

Statement of special educational needs

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

Proposed statement

If the LEA 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

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Assessment timetable

Action	Time frame
Considering whether a statutory assessment is necessary	6 weeks
Carrying out the assessment and deciding whether or not to produce a statement	10 weeks
Drafting the proposed statement or note in lieu	2 weeks
Finalising the proposed statement	8 weeks
Total	26 weeks

independent schools. All reports and evidence gathered for the statutory assessment must be included with the proposed statement, usually attached to the back 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 LEA. 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 LEA's arrangements for provision to be made otherwise 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' on page 12 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 LEA.

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 local authority (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 any notes on it 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 the following:

- 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
- make a list of any disagreements or gaps between all the professionals' reports and the proposed statement
- highlight any words or phrases that you don't understand and ask for an explanation
- make a note of anything you disagree with, anything that is unclear or any gaps. You can also include any wording you would like to see in the statement.

Timescales involved

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

You can also request a meeting with the 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 LEA.

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

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Getting help

You can take someone with you to any meetings with the LEA. A friend, relative or your local parent partnership service can attend the meetings with you. You may also want to arrange meetings with

Speech and language 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 an educational or non-educational provision, so can be included in either Part three or Part six of the statement. However, Part six does not have the same legal force as Part three, so it is best to have speech and language therapy included in Part three.

This is supported by the Code of Practice which states that, as communication is so fundamental in learning and progression, addressing speech and language impairment should normally be recorded as educational provision (included in Part three of the statement), unless there are exceptional reasons for not doing so. The Code of Practice also states that the LEA has ultimate responsibility for ensuring that speech and language therapy is provided, even though prime responsibility for speech and language therapy rests with the NHS.

Note, speech and language therapy can be provided at School Action and School Action Plus, too, (see page 5).

any professionals who contributed to the statutory assessment.

Getting a copy of the final statement

The LEA must send you a copy of the final statement, written notice of your rights to appeal to the Special Educational Needs and Disability Tribunal for Wales (SENTW) and the time limits for lodging an appeal. You have two months to lodge an appeal after the LEA's decision. The LEA 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. The LEA may issue a final statement even if you and the LEA are still in disagreement.

LEAs 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 Disability Discrimination Act (2001) gives you a stronger right than before for a place in a mainstream



school for your child. LEAs 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 LEA can refuse your preference for a maintained school

The LEA must name the maintained school you prefer unless:

- the school is unsuitable for the child's age, ability and 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 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 LEA should 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 LEA provision (the maintained sector) is unable to meet your child's needs.

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You can choose to send your child to a fee-paying independent school at your own expense. If the LEA is happy the school can make the provision to meet your child's needs, and there is a realistic possibility of the place being funded for a reasonable period of time, the LEA can state the type of provision in Part four of the statement but doesn't have to name the school. The LEA will still have a duty to maintain your child's statement and review it annually.

When a residential school will be considered

The 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 by 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 local authority 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 that a multi-agency plan be put into 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 LEA should also agree arrangements for your child's contact with their family. Any special help, such as transport, needed to maintain family contact should also be arranged. If your child is attending a residential school for longer than three months, the LEA 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, though, to inform both.

Education otherwise than at school

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

When you've decided to home educate your child

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

Types of school/education provision

Academy

An independent state school which is set up to replace a failing school or where a new school is needed. It will specialise in particular curriculum areas. Academies can be named on a statement but, because of their independent status, they cannot be forced to admit a child by the SEN and Disability Tribunal.

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.

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 Disability Discrimination Act does apply.

Maintained school

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

Mainstream school

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

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.

Portage

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

Pupil referral unit (PRU)

A 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.

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Transport

When the LEA must help with transport to school

LEAs 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 various circumstances, including the walking distance between home and school, family and social circumstances, health, additional needs and/or disability.

The school is beyond 'walking distance'

LEAs 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 aged under eight years of age.



LEAs 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.

- 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 LEA considers that there is a nearer suitable school, the LEA 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. LEAs can provide transport to pupils who:

- for medical reasons, or because they have a disability, cannot walk to school
- live within the walking distance but who, without free transport, could not reasonably be expected to get to school.

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

Special rules for low-income families

There are special rules for children in low-income families. Children aged eight or over but under 11 and from low-income families, must have travel arrangements made for them if they live more than two miles from their nearest qualifying school.

Please note that only certain schools are qualifying schools. Contact our helpline if you are not sure if your child attends a qualifying school.

Low-income families are defined as those whose children are entitled to free school meals and/or receive the maximum level of Working Tax Credit.

The right to free school transport has been extended to secondary school children aged from 11 to 16, if:

- you are in receipt of the maximum Working Tax Credit or your child qualifies for free school meals
- your child goes to any one of their three nearest preferred schools on denominational (religious) grounds, and the school is between two and 15 miles away from your home address.

Contact our helpline for further information.

Information about the LEA's home to school transport

LEAs 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 LEA to provide suitable transport for their child and have to challenge the LEA. Contact our helpline if you are in this situation.

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 those 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 the section 'Transition planning' on page 20 for more information.

Before the annual review

Two weeks before the start of the school term, the LEA must inform the headteacher, in writing, of the pupils whose statements must be reviewed that term. The head will invite you and any relevant professionals to the review

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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 LEA 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 checked 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 LEA. 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 your child's 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 the progress made in relation to the 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 LEA. The report will summarise the meeting's conclusions and include any

recommendations, with reasons, as to 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 LEA will decide whether to make any changes to your child's statement. They can decide to:

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

When the Statement is changed

The LEA must inform you within one week of deciding to make any changes to the statement and send you a notice that details their proposed amendments. You can make representations about the statement and changes made to it within 15 days of receiving the amendment notice. You can also request a meeting with an officer at the LEA to discuss the proposed amendments.

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

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

You cannot appeal if the LEA decides not to amend the statement. However, you can request a reassessment of your child's needs if you think they

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.

have changed and that the statement does not reflect this. See the section on statutory assessments on page six for further information about requesting a reassessment.

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 your child to go to 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 need to request a reassessment.

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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 SENTW.

The local education authority must agree unless:

- the school is unsuitable for the child's age, ability and aptitude and provision of the special educational needs set out in Part 2 of the statement
- the child's attendance is incompatible with the efficient education of other children in the school
- the child's attendance is incompatible with the efficient use of the local authority's resources.

The LEA must respond within eight weeks of your request and you can appeal to SENTW 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.

Your child's 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, so recommendations can be given about the type of provision your child will require at secondary school. This will give you time to visit different secondary schools and consider the options available.

Your child's statement must be amended by the 15th February of the year of 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 of 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. Careers Wales 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 help 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'.

Action you can take if you're unhappy

Sometimes parents disagree with a school's and/or local authority's views of their child's special educational needs and the support necessary 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 LEAs must provide disagreement resolution services. These are independent services that can help resolve disagreements between LEAs and parents about the performance of duties under education legislation, and between parents and schools about the special educational provision for their child.

LEAs should inform you of these services when they inform you of the right to appeal to SENTW. You can use disagreement resolution services and still appeal to SENTW. However, if you are involved in disagreement resolution, be careful not to let the deadline pass for lodging an appeal.

Special Educational Needs and Disability Tribunal Wales (SENTW)

You can appeal to SENTW against decisions made by the LEA about your child's education. Appeals to the tribunal regarding SEN issues must be lodged within two months of the LEA's decision.

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

What you can appeal to the tribunal about

You can appeal to the tribunal if your LEA:

- refuses to carry out a statutory assessment or reassessment of your child's SEN (if the LEA has not made a new assessment for at least six months)
- refuses to issue a statement after carrying out an assessment.

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

Also, if the LEA 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
- the description of the educational provision in Part three of the statement
- the school named in Part four of the statement
- if no school is named in Part four of the statement
- refuses to change the school named in your child's statement, if the statement is at least a year old (please note you can only request a LEA maintained school)
- decides not to maintain your child's statement.

You cannot appeal to SENTW:

- if the LA refuses to name an independent or non-maintained school when you ask for a change in a statement that is at least a year old
- 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
- if the LA will not amend the statement after an annual review.

Appealing to the SENTW about disability discrimination

SENTW also deals with disability discrimination claims. See page 27 for further information about disability discrimination. You can appeal to SENDIST 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 SENTW

You can contact SENTW 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*'.

SENTW

Unit 32, Ddole Enterprise Park
Powys LD1 6PF
Helpline: (01597) 829800
e-mail: tribunalenquiries@wales.gsi.gov.uk
www.sentw.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' if there is 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.

Wales is now covered by the Public Services Ombudsman for Wales.

Public Services Ombudsman for Wales

1 Fjord yr Hen Gae, Pencoed CF35 5LJ
Tel: (01656) 641150
www.ombudsman-wales.org

Court action

A judicial review is the way that courts investigate whether public bodies are exercising their powers lawfully. A judicial review will consider how the public body, such as a LEA, carried out their duties and check that their decisions were lawful and reasonable.

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 taking legal action.

Secretary of State for Education

If you feel that the LEA 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.

Pupils with medical needs

Support available for children with medical needs

All schools should have a policy and procedures 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 clarify the help that can be provided. This plan should be reviewed at least annually, but can be reviewed more frequently depending on your child's needs.

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www.cafamily.org.uk

Medical needs and requesting statutory assessments

In some cases, a health care plan may not provide sufficient support to meet your child's needs. If this is the case, you may want to request a statutory assessment. There can occasionally be some discussion about whether a child with a medical condition also has special educational needs.

'The Education of Sick Children' is government guidance which sets out minimum national standards for the education of children and young people who are unable to attend school because of a medical need. This guidance says that a medical condition may increase the likelihood that a pupil has a significantly greater learning difficulty compared with the majority of children of the same age. A child's condition may amount to a disability which prevents or hinders them from making use of the educational facilities generally provided for children of their age. If this is the case, then

they meet the definition for special educational 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.

Home education

Sometimes, children with medical conditions are unable to attend school and are not receiving education in hospital but are receiving home tuition. 'Access to Education' says that LEAs should ensure that pupils at home with medical needs:

- receive education after 20 working days absence at the latest
- receive education from day one if they have prolonged or recurring periods of absence



- receive an education of similar quality to that available in school, including a broad and balanced curriculum
- receive a minimum of five hours teaching per week.

Five hours of teaching a week is the minimum and local authorities can increase this, where necessary, to enable your child to keep up with their studies. This is particularly important when your child is approaching public examinations. In some situations your child may not be well enough to have any home tuition.

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

Parent partnership services available

Parent partnership services provide advice, support and information to parents and carers whose children have special educational needs at all levels of the decision-making process, from School Action to appeals regarding statements. All LEAs must make arrangements for such services and in Wales these are currently provided by voluntary organisations. Parent partnership services should provide impartial advice and support so you can make informed decisions about your child's special educational needs.

Independent parental supporters

Parent partnership services are expected to provide a range of services including access to an independent parental

The SEN Code of Practice says that children should, where possible, take part in all decision-making processes in education.

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. Parent partnership service contact details are listed under SNAP Cymru on page 29.

Pupil participation

Your child's right to be heard

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

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www.cafamily.org.uk



Involving your child in making decisions

The SEN Code of Practice 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,

Making a complaint

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

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 available for children 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 Connexions personal advisor, counsellor, social worker or health professionals.

When you and your child disagree

Sometimes you and your child will have differences of opinion. If you and your child have different opinions, both views should be listened to and recorded separately.

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 Disability Discrimination Act 1995 (DDA).

Who is covered by the DDA?

Your child will be covered by the DDA if they have a disability as defined by the Act. The DDA 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 DDA 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 DDA.

The areas of education where the DDA 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, school sports and exclusions.

Promoting equality in schools

The Disability Discrimination Act 2006 brought in the Disability Equality duty. Schools are now required to promote equality of opportunity for disabled people.

All primary and secondary schools maintained by a local authority, (including all local authorities themselves), must publish their disability equality schemes. 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 these equality duties, although they are encouraged to do so as a matter of good practice.

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.

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

The body responsible for complying with the DDA

In education, it is the duty of the responsible body to ensure that a school complies with the DDA. The responsible body may be the governing body, local authority, or owner of the school depending on which type of school your child attends.

Accessibility plans

Local education 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 accessing the premises.

Further information and advice on disability discrimination

If you feel that your child has been discriminated against then you can contact the Equality and Human Rights Commission for specialist advice.

Equality and Human Rights

Commission (the Disability Rights Commission is now part of this) Equality and Human Rights Commission Helpline Wales, Freepost RRLR-UEYB-UYZL, 3rd Floor, 3 Callaghan Square Cardiff CF10 5BT
Tel: 0845 604 8810
Text: 0845 604 8820
www.equalityhumanrights.com/wales

The commission is responsible for the work of three previous equality

commissions on disability, equal opportunities and racial equality. They also take on responsibility for other aspects of equality, for example age, sexual orientation and religion or belief as well as human rights.

Documents for further information and advice

There are a number of key documents produced by the Welsh Assembly that you may find useful. The majority of the documents listed here are aimed at LEAs and education settings, but are still useful for parents as they outline the responsibilities of LEAs and education settings.

The following documents are available free of charge from the Welsh Assembly Publications Centre on 029 2082 3683 or e-mail: assembly-publications@wales.gsi.gov.uk

Access to education and support for pupils with medical needs

The Welsh Assembly is developing this guidance document primarily to provide advice to schools and local education authorities on meeting the educational needs of pupils with medical needs. It emphasises the need for continuity in education and the impact medical conditions can have on a pupil's education, health and well-being.

Inclusion and Pupil Support

This document contains guidance for schools, local authorities and their partners relating to inclusion and pupil support. It aims to provide a framework

for inclusion, including key documents to assist in developing LAs' and schools' approaches to planning, supporting and meeting the needs of all learners.

Special Educational Needs: Information for parents and carers of children and young people who may have special educational needs

This guide provides information on the stages of assessment and the statementing process, as well as information about further sources of information.

Handbook of Good Practice for Children with SEN

This document provides additional guidance for teaching staff and should be read in conjunction with the Code of Practice for Wales.

Exclusion from schools and pupil referral units Circular 1/2004

This guidance covers the exclusion of pupils from schools and pupil referral units (PRUs), the procedures for appealing against an exclusion, and steps to take to maintain the education of excluded pupils.

ACE, IPSEA and **Network 81** all produce guides for parents around getting support for their child's special educational needs. Contact them directly or visit their website for copies (see page 30).

Useful organisations

The following organisations can provide further advice for parents of children with special educational needs. Most of the large charities and national support groups that deal with specific disabilities also have their own education advisers or produce guides about various aspects of education. Your local parent partnership service may be able to advise and support you, too. For further details about these organisations and how to contact them, ring our freephone helpline on 0808 808 3555.

Welsh Assembly Government

Additional Learning Needs

Cathays Park

Cardiff CF10 3NQ

Tel: 029 2082 6078

www.wales.gov.uk

This organisation publishes statutory guidance on education.

SNAP Cymru

Central Office, 10 Coopers Yard

Curran Road

Cardiff CF10 5NB

Tel: 029 2038 8776

www.snapcymru.org

Supports parents through all aspects of the statementing process in Wales and is the leading provider of parent partnership services.

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

ACE (Advisory Centre for Education)

1c Aberdeen Studies
22 Highbury Grove
London N5 2DQ
General advice line: 0800 800 5793
(Mon-Fri, 10am-5pm)
Exclusion advice line: 0800 800 0327
(Mon-Fri, 10am-5pm)
www.ace-ed.org.uk

Offers free guidance and advice on all aspects of state education, including admissions, exclusion and special educational needs.

CSIE (Centre for Studies on Inclusive Education)

New Redland, Frenchay Campus
Coldharbour Lane
Bristol BS16 1QU
Tel: 0117 328 4007
www.csie.org.uk

Provides information about inclusive education and related issues.

Education Otherwise

PO Box 325
Kings Lynn PE34 3XW
Tel: 0845 478 6345
www.education-otherwise.org

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

IPSEA (Independent Panel for Special Education Advice)

6 Carlow Mews
Woodbridge
Suffolk IP12 1EA
Tel: 0800 018 4016
www.ipsea.org.uk

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

Network 81

1-7 Woodfield Terrace
Stansted CM24 8AJ
Tel: 0870 770 3306
www.network81.org

Offers information, guidance and advice to parents of children with special educational needs and disabilities. Also a network of befrienders can support parents at meetings and through the assessment procedures. They offer a free representation service.

Parents for Inclusion

Unit 1, Winchester House
Kennington Park Business Centre
Cranmer Road
London SW9 6EJ
Tel: 0800 652 3145
www.parentsforinclusion.org

A network of parents of disabled children and children with special educational needs. Promotes the rights of disabled children to attend their local mainstream school.

Written by Penny Roper

Contact a Family thanks Network 81 for their comments and feedback on this guide.

Social networking

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

Facebook

www.facebook.com/contactafamily

Twitter

<http://twitter.com/contactafamily>

Podcasts

You can download podcasts from our website at: www.cafamily.org.uk/news/podcasts.html

iTunes users can listen to our podcasts at: <http://bit.ly/96EVT>

Videos

You can watch videos on our YouTube channel at: www.youtube.com/cafamily

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

Getting in contact with us

Free helpline for parents and families

0808 808 3555

Textphone

0808 808 3556

Open Mon–Fri, 10am–4pm

Mon, 5.30–7.30pm

Access to over 100 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**



Language Line
services

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 guides available

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

- Concerned about your child? ^(UK)
- A guide to claiming Disability Living Allowance for children ^(UK)
- The tax credits guide ^(UK)
- Working ^(UK)
- Disabled children's services in England, Scotland and Wales
- Getting direct payments for your disabled child ^(England & Wales)
- The NHS and caring for a disabled child ^(Wales)

A full list of Contact a Family publications is available on request or can be downloaded from our website www.cafamily.org.uk

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