



Special Educational Needs and Disability Act 2001

2001 CHAPTER 10

PART 1

SPECIAL EDUCATIONAL NEEDS

Identification and assessment of educational needs

7 Duty to inform parent where special educational provision made

(1) In the 1996 Act, insert the following section—

“317A Duty to inform parent where special educational provision made

- (1) This section applies if—
 - (a) a child for whom no statement is maintained under section 324 is a registered pupil at—
 - (i) a community, foundation or voluntary school, or
 - (ii) a pupil referral unit,
 - (b) special educational provision is made for him at the school because it is considered that he has special educational needs, and
 - (c) his parent has not previously been informed under this section of special educational provision made for him at the school.
- (2) If the school is a pupil referral unit, the local education authority must secure that the head teacher informs the child’s parent that special educational provision is being made for him at the school because it is considered that he has special educational needs.
- (3) In any other case, the governing body must inform the child’s parent that special educational provision is being made for him there because it is considered that he has special educational needs.”

Status: This is the original version (as it was originally enacted).

- (2) After subsection (3) of section 123 of the School Standards and Framework Act 1998 (c. 31) (provision for children with special educational needs), insert—

“(3A) Subsection (3B) applies if—

- (a) a local education authority or other person providing relevant nursery education for a child makes special educational provision for him because it is considered that he has special educational needs;
- (b) no statement under section 324 of the Education Act 1996 is maintained for the child; and
- (c) his parent has not previously been informed under subsection (3B) of the special educational provision made for him.

(3B) The local education authority or other person concerned must inform the child’s parent that special educational provision is being made for him because it is considered that he has special educational needs.”

8 **Review or assessment of educational needs at request of responsible body**

In the 1996 Act, insert the following section—

“329A Review or assessment of educational needs at request of responsible body

(1) This section applies if—

- (a) a child is a registered pupil at a relevant school (whether or not he is a child in respect of whom a statement is maintained under section 324),
- (b) the responsible body asks the local education authority to arrange for an assessment to be made in respect of him under section 323, and
- (c) no such assessment has been made within the period of six months ending with the date on which the request is made.

(2) If it is necessary for the authority to make an assessment or further assessment under section 323, they must comply with the request.

(3) Before deciding whether to comply with the request, the authority must serve on the child’s parent a notice informing him—

- (a) that they are considering whether to make an assessment of the child’s educational needs,
- (b) of the procedure to be followed in making the assessment,
- (c) of the name of their officer from whom further information may be obtained, and
- (d) of the parent’s right to make representations, and submit written evidence, to them before the end of the period specified in the notice (“the specified period”).

(4) The specified period must not be less than 29 days beginning with the date on which the notice is served.

(5) The authority may not decide whether to comply with the request until the specified period has expired.

- (6) The authority must take into account any representations made, and any evidence submitted, to them in response to the notice.
- (7) If, as a result of this section, a local education authority decide to make an assessment under section 323, they must give written notice to the child's parent and to the responsible body which made the request, of the decision and of their reasons for making it.
- (8) If, after serving a notice under subsection (3), the authority decide not to assess the educational needs of the child—
- (a) they must give written notice of the decision and of their reasons for making it to his parent and to the responsible body which made the request, and
 - (b) the parent may appeal to the Tribunal against the decision.
- (9) A notice given under subsection (8)(a) to the child's parent must—
- (a) inform the parent of his right to appeal, and
 - (b) contain such other information (if any) as may be prescribed.
- (10) On an appeal under subsection (8) the Tribunal may—
- (a) dismiss it, or
 - (b) order the authority to arrange for an assessment to be made in respect of the child under section 323.
- (11) This section applies to a child for whom relevant nursery education is provided as it applies to a child who is a registered pupil at a relevant school.
- (12) "Relevant school" means—
- (a) a maintained school,
 - (b) a maintained nursery school,
 - (c) a pupil referral unit,
 - (d) an independent school,
 - (e) a school approved under section 342.
- (13) "The responsible body" means—
- (a) in relation to a maintained nursery school or a pupil referral unit, the head teacher,
 - (b) in relation to any other relevant school, the proprietor or head teacher, and
 - (c) in relation to a provider of relevant nursery education, the person or body of persons responsible for the management of the provision of that nursery education.
- (14) "Relevant nursery education" has the same meaning as in section 123 of the School Standards and Framework Act 1998, except that it does not include nursery education provided by a local education authority at a maintained nursery school.
- (15) "Prescribed", in relation to Wales, means prescribed in regulations made by the National Assembly for Wales."

9 Duty to specify named school

In section 324 of the 1996 Act (statement of special educational needs), after subsection (4) insert—

“(4A) Subsection (4)(b) does not require the name of a school or institution to be specified if the child’s parent has made suitable arrangements for the special educational provision specified in the statement to be made for the child.”