
STATUTORY INSTRUMENTS

1996 No. 274

The Education (Northern Ireland) Order 1996

PART II

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

Identification and assessment of children with special educational needs

General duty of board towards children for whom it is responsible

13.—(1) A board shall exercise its powers with a view to securing that, of the children for whom it is responsible, it identifies those to whom paragraph (2) applies.

(2) This paragraph applies to a child if—

- (a) he has special educational needs, and
- (b) it is necessary for the board to determine the special educational provision which any learning difficulty he may have calls for.

(3) For the purposes of this Part a board is responsible for a child if he is in the area of the board and—

- (a) he is a registered pupil at a grant-aided school, or
- (b) he has attained the age of two years, is not over compulsory school age and has been brought to the attention of the board as having, or probably having, special educational needs.

Duties of health and social services boards and health and social services trusts

14.—(1) If a health and social services authority, in the course of exercising any of its functions in relation to a child who has not attained the lower limit of compulsory school age, forms the opinion that he has, or probably has, special educational needs, that authority shall—

- (a) inform the child's parent of its opinion and of its duty under this paragraph and paragraph (2); and
- (b) after giving the parent an opportunity to discuss that opinion with an officer of the authority, bring it to the attention of the appropriate board.

(2) If, in a case falling within paragraph (1), the health and social services authority is of the opinion that a particular voluntary organisation is likely to be able to give the parent advice or assistance in connection with any special educational needs that the child may have, that authority shall inform the parent accordingly.

(3) Where it appears to a board that any health and social services authority could, by taking any specified action, help in the exercise of any of the board's functions under this Part, the board may request the help of the authority, specifying the action in question.

(4) A health and social services authority whose help is so requested shall comply with the request unless it considers that—

- (a) the help requested is not necessary for the purpose of the exercise by the board of those functions, or
 - (b) having regard to the resources available to it for the purpose of the exercise of its functions, it is not reasonable for it to comply with the request, or
 - (c) compliance with the request is not compatible with its own statutory or other duties or obligations or unduly prejudices the discharge of any of its functions.
- (5) Regulations may provide that, where a health and social services authority is under a duty by virtue of paragraph (4) to comply with a request to help a board in the making of an assessment under Article 15 or a statement under Article 16, it must, subject to prescribed exceptions, comply with the request within the prescribed period.
- (6) In this Article “health and social services authority” means—
- (a) a health and social services board; or
 - (b) a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991.

Assessment of educational needs

15.—(1) Where a board is of the opinion that a child for whom it is responsible falls, or probably falls, within paragraph (2), it shall serve a notice on the child’s parent informing him—

- (a) that the board proposes 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 the officer of the board from whom further information may be obtained, and
 - (d) of the parent’s right to make representations, and submit written evidence, to the board within such period (which shall not be less than twenty-nine days beginning with the date on which the notice is served) as may be specified in the notice.
- (2) A child falls within this paragraph if—
- (a) he has special educational needs, and
 - (b) it is necessary for the board to determine the special educational provision which any learning difficulty he may have calls for.
- (3) Where—
- (a) a board has served a notice under paragraph (1) and the period specified in the notice in accordance with paragraph (1)(d) has expired, and
 - (b) the board remains of the opinion, after taking into account any representations made and any evidence submitted to it in response to the notice, that the child falls, or probably falls, within paragraph (2),

the board shall make an assessment of his educational needs.

(4) Where a board decides to make an assessment under this Article, it shall give notice in writing to the child’s parent of that decision and of the board’s reasons for making it.

(5) Schedule 1 (which makes provision in relation to the making of assessments under this Article) shall have effect.

(6) Where, at any time after serving a notice under paragraph (1), a board decides not to assess the educational needs of the child concerned it shall give notice in writing to the child’s parent of the board’s decision and the reasons for making it.

Statement of special educational needs

16.—(1) If, in the light of an assessment under Article 15 of any child’s educational needs and of any representations made by the child’s parent, it is necessary for the board to determine the special educational provision which any learning difficulty he may have calls for, the board shall make and maintain a statement of his special educational needs.

(2) The statement shall be in such form and contain such information as may be prescribed.

(3) In particular, the statement shall—

- (a) give details of the board’s assessment of the child’s special educational needs, and
- (b) specify the special educational provision to be made for the purpose of meeting those needs, including the particulars required by paragraph (4).

(4) The statement shall—

- (a) specify the type of school or other institution which the board considers would be appropriate for the child,
- (b) if the board is not required under Schedule 2 to specify the name of any grant-aided school in the statement, specify the name of any school or institution (whether in Northern Ireland or elsewhere) which it considers would be appropriate for the child and should be specified in the statement, and
- (c) indicate any provision for the child for which it makes arrangements under Article 10(1)
 - (b) otherwise than in a school or institution and which it considers should be indicated in the statement.

(5) Where a board maintains a statement under this Article—

- (a) unless the child’s parent has made suitable arrangements, the board—
 - (i) shall arrange that the special educational provision indicated in the statement is made for the child, and
 - (ii) may arrange that any non-educational provision indicated in the statement is made for him in such manner as it considers appropriate, and
- (b) if the name of a grant-aided school is specified in the statement, the Board of Governors of the school shall admit the child to the school.

(6) Paragraph (5)(b) does not affect any power to suspend or expel from a school a pupil who is already a registered pupil there.

(7) Schedule 2 (which makes provision in relation to the making and maintenance of statements under this Article) shall have effect.

Appeal against decision not to make statement

17.—(1) If, after making an assessment under Article 15 of the educational needs of any child for whom no statement is maintained under Article 16, the board does not propose to make such a statement, it shall give notice in writing of its decision, of the reasons for making it and of the effect of paragraph (2), to the child’s parent.

(2) In such a case, the child’s parent—

- (a) shall have the right to receive, on request, a copy of any advice given to the board on which the decision is based; and
- (b) may appeal to the Tribunal against the decision.

(3) On an appeal under this Article, the Tribunal may—

- (a) dismiss the appeal,

- (b) order the board to make and maintain such a statement, or
- (c) remit the case to the board for it to reconsider whether, having regard to any observations made by the Tribunal, it is necessary for the board to determine the special educational provision which any learning difficulty the child may have calls for.

Appeal against contents of statement

18.—(1) The parent of a child for whom a board maintains a statement under Article 16 may—

- (a) when the statement is first made,
- (b) where the description in the statement of the board’s assessment of the child’s special educational needs, or the special educational provision specified in the statement, is amended, or
- (c) where, after conducting an assessment of the educational needs of the child under Article 15, the board determines not to amend the statement,

appeal to the Tribunal against the description in the statement of the board’s assessment of the child’s special educational needs, the special educational provision indicated in the statement or, if no school is named in the statement, that fact.

(2) Paragraph (1)(b) does not apply where the amendment is made in pursuance of paragraph 8 or 11(3)(b) of Schedule 2 or directions under paragraph 2 of Schedule 13 to the 1986 Order; and paragraph (1)(c) does not apply to a determination made following the service of notice under paragraph 10 of Schedule 2 of a proposal to amend the statement.

(3) On an appeal under this Article, the Tribunal may—

- (a) dismiss the appeal,
- (b) order the board to amend the statement, so far as it describes the board’s assessment of the child’s special educational needs or specifies the special educational provision, and make such other consequential amendments to the statement as the Tribunal thinks fit, or
- (c) order the board to cease to maintain the statement.

(4) On an appeal under this Article the Tribunal shall not order the board to specify the name of any school in the statement (either in substitution for an existing name or in a case where no school is named) unless—

- (a) the parent has expressed a preference for the school in pursuance of arrangements under paragraph 3 of Schedule 2, or
- (b) in the proceedings the parent, the board or both have proposed the school.

(5) Before determining any appeal under this Article the Tribunal may, with the agreement of the parties, correct any deficiency in the statement.

Reviews of statements

19.—(1) A statement under Article 16 shall be reviewed by the board—

- (a) on the making of an assessment in respect of the child concerned under Article 15, and
- (b) in any event, within the period of twelve months beginning with the making of the statement or, as the case may be, with the previous review.

(2) Regulations may make provision—

- (a) as to the manner in which reviews of such statements are to be conducted,
- (b) as to the participation in such reviews of such persons as may be prescribed, and

- (c) in connection with such other matters relating to such reviews as the Department considers appropriate.

Assessment of educational needs at request of child's parent

20.—(1) Where—

- (a) the parent of a child for whom a board is responsible asks the board to arrange for an assessment to be made in respect of the child under Article 15,
- (b) such an assessment has not been made within the period of six months ending with the date on which the request is made, and
- (c) it is necessary for the board to make an assessment under that Article,

the board shall comply with that request.

(2) Paragraph (1) applies whether or not the board is maintaining a statement under Article 16 for the child.

(3) If in any case where paragraph (1)(a) and (b) applies the board decides not to comply with the request—

- (a) it shall give notice to the child's parent of that decision, the reasons for making it and the effect of sub-paragraph (b), and
- (b) the parent may appeal to the Tribunal against the decision.

(4) On an appeal under paragraph (3) the Tribunal may—

- (a) dismiss the appeal, or
- (b) order the board to arrange for an assessment to be made in respect of the child under Article 15.

Assessment of educational needs of children under two

21.—(1) Where a board is of the opinion that a child in its area who is under the age of two years falls, or probably falls, within paragraph (2)—

- (a) it may, with the consent of his parent, make an assessment of the child's educational needs, and
- (b) it shall make such an assessment at the request of his parent.

(2) A child falls within this paragraph if—

- (a) he has special educational needs, and
- (b) it is necessary for the board to determine the special educational provision which any learning difficulty he may have calls for.

(3) An assessment under this Article shall be made in such manner as the board considers appropriate.

(4) After making an assessment under this Article, the board—

- (a) may make a statement of the child's special educational needs, and
- (b) may maintain that statement,

in such manner as it considers appropriate.