



Education Act 1981

1981 CHAPTER 60

Identification and assessment of children with special educational needs

4 General duty of local education authority towards children for whom they are responsible

- (1) It shall be the duty of every local education authority to exercise their powers under this Act with a view to securing that, of the children for whom they are responsible, those with special educational needs which call for the local education authority to determine the special educational provision that should be made for them are identified by the authority.
- (2) For the purposes of this Act a local education authority are responsible for a child if he is in their area and—
 - (a) he is registered as a pupil at a school maintained by them or is registered as a pupil in pursuance of arrangements made by them by virtue of section 6 of the Education (Miscellaneous Provisions) Act 1953 at a school which is not maintained by them or another local education authority: or
 - (b) he has been brought to their attention as having, or as probably having, special educational needs and—
 - (i) is registered as a pupil at a school but does not fall within paragraph (a) above ; or
 - (ii) is not registered as a pupil at a school and is not under the age of two years or over compulsory school age.

5 Assessment of special educational needs

- (1) Where, in the case of a child for whom a local education authority are responsible, the authority are of the opinion—
 - (a) that he has special educational needs which call for the authority to determine the special educational provision that should be made for him ; or
 - (b) that he probably has such special educational needs;they shall make an assessment of his educational needs under this section.

- (2) Assessments under this section shall be made in accordance with the following provisions of this Act.
- (3) If a local education authority propose to make an assessment of the educational needs of a child under this section they shall, before doing so, serve notice on the child's parent informing him—
 - (a) that they propose to make an assessment;
 - (b) of the procedure to be followed in making it;
 - (c) of the name of the officer of the authority from whom further information may be obtained ; and
 - (d) of his right to make representations, and submit written evidence, to the authority within such period (which shall not be less than 29 days beginning with the date on which the notice is served) as may be specified in the notice.
- (4) When a local education authority have served a notice under subsection (3) above and the period specified in the notice in accordance with paragraph (d) has expired, the authority shall, if they consider it appropriate after taking into account any representations made and any evidence submitted to them in response to the notice, assess the educational needs of the child concerned.
- (5) Where a local education authority decide to make an assessment under this section they shall notify the child's parent in writing of their decision and of their reasons for making it.
- (6) If, after making an assessment of the educational needs of a child under this section, the local education authority decide that they are not required to determine the special educational provision that should be made for him the parent may appeal in writing to the Secretary of State.
- (7) In a case falling within subsection (6) above the local education authority shall notify the parent in writing of his right of appeal under that subsection.
- (8) On an appeal under subsection (6) above the Secretary of State may, if he thinks fit, direct the local education authority to reconsider their decision.
- (9) The provisions of Part I of Schedule 1 to this Act have effect in relation to assessments under this section.
- (10) Where, at any time after serving a notice under subsection (3) above, a local education authority decide not to assess the educational needs of the child concerned they shall notify his parent in writing of their decision.

6 Assessment of special educational needs of children under the age of two

- (1) Where, in the case of a child in their area who is under the age of two years, a local education authority are of the opinion—
 - (a) that he has special educational needs which call for the authority to determine the special educational provision that should be made for him; or
 - (b) that he probably has such special educational needs;
 they may, with the consent of the child's parent, make an assessment of his educational needs and shall do so at the request of that parent.
- (2) An assessment under this section shall be made in such manner as the local education authority consider appropriate; and after making such an assessment they may make

a statement of the child's special educational needs, and maintain that statement, in such manner as they consider appropriate.

7 Statement of child's special educational needs

- (1) Where an assessment has been made in respect of a child under section 5, the local education authority who are responsible for the child shall, if they are of the opinion that they should determine the special educational provision that should be made for him, make a statement of his special educational needs and maintain that statement in accordance with the following provisions of this Act.
- (2) In any case where a local education authority maintain a statement under this section in respect of a child, it shall be the duty of the authority to arrange that the special educational provision specified in the statement is made for him unless his parent has made suitable arrangements.
- (3) Before making such a statement a local education authority shall serve on the parent of the child concerned—
 - (a) a copy of the proposed statement; and
 - (b) a written explanation of the effect of subsections (4) to (7) below.
- (4) If the parent on whom a copy of a proposed statement has been served under subsection (3) (a) above disagrees with any part of the proposed statement he may, before the expiry of the appropriate period—
 - (a) make representations (or further representations) to the authority about the content of the proposed statement;
 - (b) require the authority to arrange a meeting between him and an officer of the authority at which the proposed statement can be discussed.
- (5) Where a parent, having attended a meeting arranged by a local education authority under subsection (4)(b) above, disagrees with any part of the assessment in question he may, before the expiry of the appropriate period, require the authority to arrange one or more meetings under subsection (6) below.
- (6) Where a local education authority receive a request duly made under subsection (5) above they shall arrange such meeting or meetings as they consider will enable the parent to discuss the relevant advice with the appropriate person or persons.

In this subsection—

" relevant advice " means such of the advice given to the authority in connection with the assessment as they consider to be relevant to that part of the assessment with which the parent disagrees ; and

" appropriate person " means the person who gave the relevant advice or any other person who, in the opinion of the authority, is the appropriate person to discuss it with the parent.

- (7) In this section " appropriate period " means the period of 15 days beginning—
 - (a) in the case of a request under subsection (4)(b) above, with the date on which the statement mentioned in subsection (3)(b) above was served on the parent;
 - (b) in the case of a request under subsection (5) above, with the date fixed for the meeting arranged under subsection (4)(b) above ; and
 - (c) in the case of representations, or further representations, under subsection (4) (a) above—

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- (i) with the date mentioned in paragraph (a) above; or
 - (ii) if one or more meetings have been arranged under the preceding provision of this section, with the date fixed for the last of those meetings.
- (8) Where any such representations are made to a local education authority the authority may, after considering those representations—
- (a) make a statement in the form originally proposed;
 - (b) make a statement in a modified form; or
 - (c) determine not to make a statement;
- and shall notify the parent in writing of their decision.
- (9) On making a statement under this section a local education authority shall serve on the parent of the child concerned—
- (a) a copy of the statement;
 - (b) notice in writing of his right under section 8(1) of this Act to appeal against the special educational provision specified in the statement; and
 - (c) notice in writing of the name of the person to whom he may apply for information and advice about the child's special educational needs.
- (10) The Secretary of State may by regulations prescribe the frequency with which assessments are to be repeated in respect of children for whom statements are maintained under this section.
- (11) The provisions of Part II of Schedule 1 to this Act have effect in relation to statements made under this section.

8 Appeals against statements

- (1) Every local education authority shall make arrangements for enabling the parent of a child for whom they maintain a statement under section 7 to appeal, following the first or any subsequent assessment of the child's educational needs under section 5, against the special educational provision specified in the statement.
- (2) Any appeal by virtue of this section shall be to an appeal committee constituted in accordance with paragraph 1 of Part I of Schedule 2 to the Education Act 1980.
- (3) Part II of that Schedule shall have effect in relation to the procedure on any such appeal but with the following modifications—
- (a) paragraph 7 (matters to be taken into account by appeal committee) shall have effect as if for paragraphs (a) and (b) there were substituted the words " any representations made by the appellant under section 7 of the Education Act 1981 ";
 - (b) paragraph 9(b) (decision to be communicated to school governors) shall not apply; and
 - (c) for any reference to section 7 of the 1980 Act there shall be substituted a reference to this section.
- (4) An appeal committee hearing an appeal by virtue of this section may—
- (a) confirm the special educational provision specified in the statement; or
 - (b) remit the case to the local education authority for re consideration in the light of the committee's observations.

- (5) When an appeal committee remit a case to a local education authority the authority shall reconsider it in the light of the committee's observations and shall inform the appellant in writing of their decision.
- (6) In any case where—
 - (a) an appeal committee confirm the decision of a local education authority as to the special educational provision to be made for a child; or
 - (b) a local education authority inform an appellant of their decision in a case which has been remitted to them under subsection (4)(b) above;the appellant may appeal in writing to the Secretary of State.
- (7) On an appeal under subsection (6) above the Secretary of State may, after consulting the local education authority concerned—
 - (a) confirm the special educational provision specified in the statement;
 - (b) amend the statement so far as it specifies the special educational provision and make such other consequential amendments to the statement as he considers appropriate; or
 - (c) direct the local education authority to cease to maintain the statement.

9 Requests for assessments

- (1) If the parent of a child for whom a local education authority are responsible but for whom no statement is maintained by the authority under section 7 asks the authority to arrange for an assessment to be made of the child's educational needs the authority shall comply with the request unless it is in their opinion unreasonable.
- (2) If the parent of a child for whom a local education authority maintain a statement under section 7 asks the authority to arrange for an assessment of his educational needs under section 5 and such an assessment has not been made within the period of 6 months ending with the date on which the request is made, the authority shall comply with the request unless they are satisfied that an assessment would be inappropriate.

10 Duty of health authority to notify parents etc.

- (1) If an Area or District Health Authority, in the course of exercising any of its functions in relation to a child who is under the age of five years, forms the opinion that he has, or; probably has, special educational needs, the Authority shall—
 - (a) inform his parent of its opinion and of its duty under this section; 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 local education authority.
- (2) If, in a case falling within subsection (1) above, the Authority are 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, they shall inform the parent accordingly.