

SPECIAL EDUCATIONAL NEEDS AND DISABILITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Special Educational Needs

Sections 1 to 10 and Schedules 1 & 8

Section 8: Review or assessment of special educational needs at request of responsible body

61. This section amends the EA by inserting a new section 329A. This gives maintained schools, maintained nursery schools, nursery education providers (in receipt of financial assistance from LEAs and included in the proposals for providing nursery education in accordance with section 118 of the SSFA in Early Years Development Plans), PRUs, independent schools (including CAs, CTCs and CCTAs) and non-maintained special schools the formal right to ask the LEA to carry out a statutory assessment or re-assessment of a registered pupil at the school to determine whether that child needs a statement of SEN, in cases where no such assessment or re-assessment has taken place within the previous six months. At present only parents have that right.
62. It places a duty on the LEA to decide whether to make an assessment or re- assessment in response to a request from a school and it places a duty on the LEA, before deciding whether to comply with the request, to send a notice to the parent informing them that a request from the school has been made, of the procedure to be followed when making an assessment, the name of an officer at the LEA who can provide further information, and, of their right to make representations and provide written comments within a minimum of 29 days.
63. Should the LEA decide to assess the child's educational needs, section 329A requires them to notify the child's parent and the school which made the request. If they decide not to make an assessment, they are required to notify the parent and school of that decision, and the reasons for it. They also have to inform the parent of his right to appeal to the SENT, and give him any further information required by regulations (which might include details of the conciliation service available under section 332B).