

CHILDREN, SCHOOLS AND FAMILIES ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Children and Schools

Children with special educational needs etc

Section 2: Right of appeal against determination by local authority not to amend statement

23. This section provides a new right of appeal to the First-tier Tribunal (Special Educational Needs and Disability) for parents in circumstances where, following a review of a statement of special educational needs (SEN), a local authority in England decides not to make any changes to the statement. Section 328 of the the EA 1996 imposes requirements in relation to reviews. It provides that all statements must be reviewed within the period of 12 months beginning either with the date on which the statement was made or with the date of the previous review. This means that all of the stages of the review including the local authority's decision on whether to amend a statement must be completed within the 12 month period.
24. Part 4 of the EA 1996 provides for local authorities to make provision for children with SEN, including the drawing up of SEN statements where they are considered to be appropriate. The statement describes the special educational provision that an individual child will receive. Statements must be reviewed annually but can also be reviewed at other times. Parents have the right of appeal to the Tribunal in certain circumstances.
25. [Section 2](#) inserts a new section after section 328 of the EA 1996 to introduce a right for parents to appeal in situations where, following a review, the local authority has not made any changes to a statement and the parents want changes which were suggested in the report on the review submitted by the head teacher to be made, or want other changes to be made. The local authority must inform the parents in writing if it decides not to amend the statement and must also inform them of their right to appeal to the Tribunal.
26. The appeal may be in relation to:
 - a) the description of the local authority's assessment of the child's special educational needs in the unamended statement;
 - b) the special education provision in the unamended statement and the name of a school specified in it; or
 - c) the fact that no school is named in the unamended statement.