

7. Pupils Moving In to the LEA

The LEA's procedure is summarised on a flowchart ("11. Child moving in to LEA") to be found in Appendix D to this document.

7.1 Pupils with an Existing Statement

When a child with a statement moves from another LEA into Birmingham, the 'old' LEA must transfer the statement (which includes all the advice) to Birmingham - the 'new' LEA. Our LEA then becomes responsible for that child.

From the date of transfer -

- (a) the statement shall be treated for the purposes of the new authority's duties and functions under Part IV of the Act and these Regulations as if it had been made by the new authority....., and
- (b) where the new authority make an assessment and the old authority have supplied the new authority with advice obtained in pursuance of a previous assessment regulation 7(5) [described in section 3.16 above] shall apply as if the new authority had obtained the advice on the date on which the old authority obtained it.

[Regulation 23(3)]

- 7.2 The Principal Officer will ensure the completion of the first part of Form 15. This form, together with a copy of the papers, will then be sent to the Educational Psychology Service, whose advice will be requested within 3 weeks from the date on which the form was received by them. This advice will be based on the papers available. The Senior or Principal Psychologist will make his or her recommendations using Form 15.
- 7.3 Within 6 weeks of the date of the transfer, the LEA will send a letter to the parents, as required under Regulation 23(4), informing them that the statement has been transferred. Letter SEN36 will be used to inform the parent whether the LEA propose to make an assessment under section 323 of the Act; letter SEN37 will inform them that the statement has been accepted and will be reviewed by a specific date given to them.
- 7.4 Under Regulation 23(5), the statement must be reviewed within:
- 12 months beginning with the date of the statement or the last review or, if this would be a later date,
 - 3 months from the date the statement was transferred
(i.e. the LEA must review by whichever of these two dates occurs later)

- 7.5 On transfer of the statement, the LEA becomes responsible for maintaining the child at the school named on the statement. If this is no longer 'practicable', the LEA may,:

.....arrange for the child's attendance at another school appropriate for the child until such time as it is possible to amend the statement in accordance the procedure set out in Schedule 27.

[Regulation 23(6)]

If it is practicable for the child to attend the school named on the statement:

.....the new LEA may not decline to pay the fees or otherwise maintain the child at an independent school or non-maintained special school or a boarding school named in a statement, unless and until they have formally amended the statement.

[Code 8:114]

The amendment procedure, including the parents right of appeal, would be the same as that described earlier in sections 6.1-6.4.

- 7.6 Where the LEA does place the child in a new school, the LEA will write (SEN38) to the headteacher requesting placement pending the outcome of a review. The headteacher will be advised of the date by which the statement must be reviewed. Copies of all relevant papers received will be sent to the headteacher at the same time.

7.7 **Cases where a Statutory Procedure has Started but not Completed**

Some pupils may transfer into the LEA without a statement, but where a statutory assessment process has been started in the 'old' LEA. The Principal Officer will ensure the completion of the first part of Form 15. This form, together with a copy the papers, will then be sent to the Educational Psychology Service, whose advice will be requested within 3 weeks from the date on which the form was received by them. This advice will be based on the papers available. The Senior or Principal Psychologist will make his or her recommendations using Form 15.

- 7.8 Such a pupil, if of school age, would normally start at the local mainstream school. The school's special educational needs co-ordinator (SENCO) would then be responsible for deciding what special provision was required within School Action or School Action Plus. If necessary, the SENCO could seek the advice of external specialists, especially the school's visiting educational psychologist.

- 7.9 However, there may be circumstances, based on the papers received, where it would be inappropriate for the child to start in a mainstream school without support. Indeed, it may even be appropriate for the pupil to be placed at a special school or unit, whilst the LEA carry out a statutory assessment. If this is the case, the Senior or Principal Psychologist will make this clear on the advice given to the LEA on Form 15. The LEA would then consider starting an immediate statutory assessment. If necessary, the child could then be placed at a special school or unit, on a provisional basis, provided the parents gave their permission.
- 7.10 Where the LEA does commence a statutory assessment, it may be possible to use any formal advice submitted in the statutory assessment being conducted by the 'old' authority, provided:

- (a) the authority have obtained advice.....within the preceding 12 months, and
- (b) the authority, the person from whom the advice was obtained and the child's parent are satisfied that the existing advice is sufficient for the purpose of arriving at a satisfactory assessment.

[Regulation 7(5)]

- 7.11 Whatever decision the LEA takes, they will write (SEN39) to the parents within 6 weeks of the date of receipt of the papers from the 'old' LEA. The letter will advise the parents what actions the LEA proposes to take. If necessary, their consent will be sought to a provisional placement in a special school or unit, pending the outcome of a statutory assessment.