

### **3. Statutory Assessment**

The LEA's procedure is summarised on a flowchart ("6. Statutory Assessment Procedure") to be found in Appendix D to this document.

#### **The Decision Whether To Make An Assessment**

##### **3.1 Notice of a Proposal to make a Statutory Assessment**

If a request for assessment is received from a 'responsible body' (headteacher or early education provider) then the LEA will write to the parents (letter SEN2) advising them that the LEA propose to make an assessment. This formal 'notice' is issued under section 329(3) of the Act.

For other requests (from an EP) and after a request has been accepted, the LEA will write to the parents (letter SEN1) advising them that the LEA propose to make an assessment. This formal 'notice' is issued under section 323(1) of the Act.

In addition, the LEA will issue a notice in circumstances where a decision has been made to proceed with the assessment of a child under the age of two years (under section 331(3) of the Act).

3.2 Copies of this letter will be sent to the Psychological Service, the headteacher or early education provider, the health authority, the local social services department, the Child Advisory Social Work Service (if residential provision is under consideration), the Parent Partnership Service and to any other relevant agency who might be asked for advice should the assessment proceed. It will be made clear on this copy [as required by Regulation 6(3)], what help the LEA "are likely to request".

The Parent Partnership Service then send the parents their initial letter which lists the menu of services available. A copy of the SEN Information pack is sent to the parents if they request it.

3.3 Attached to this 'notice' will, as required, be information detailing:

- the procedure to be followed in making the assessment
- the name of the officer of the authority from whom further information may be obtained,
- the parent's right to make representations within 29 days

- the availability to the parent of advice and information on matters related to his child's special educational needs from the Parent Partnership Service, and
- of the possibility that their child may be called for an examination or assessment

[See sections 323(2), 329A(3) of the Act and Regulation 12(1)]

The officer named will be the appropriate Principal Assessment Officer. A 'standard' proforma (Form 6) will be sent to parents on which they can write their views. A 'standard' proforma (Form 7) will also be supplied to record the child's views. If they prefer, the parents will be able to make their views known by telephone.

- 3.4 Following the SEN1/2 and the expiry of the minimum period of 29 days available for the receipt of parents' views, the LEA will decide whether or not to make an assessment. It should be noted that the LEA is legally obliged [Act 329A (4-5)] to wait until the 29 days has expired before making this decision. In order to reach their decision, the LEA will take into account any parental representations made to them, together with any further evidence submitted by the parents.

### 3.5 Time Limits

Under Regulation 12(1-4), the LEA will have 6 weeks from the date of service of the SEN1/2 notice to write to the parents again, informing them of the LEA's decision whether or not to make a statutory assessment.

- 3.6 Under the Regulations, the LEA need not comply with this time limit

..... if it is impractical to do so because -

- (a) the authority have requested advice from the headteacher of a school during a period beginning 1 week before any date on which that school was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
- (b) the authority have requested advice from the head of SEN in relation to or other person responsible for a child's education at an early education provider during a period beginning 1 week before any date on which that early education provider was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
- (c) exceptional personal circumstances affect the child or his parent during the 6 week period.....; or

(d) the child or his parent are absent from the area of the authority for a continuous period of not less than 4 weeks during the 6 week period

[Regulations, 12(5)]

### 3.7 **Decision to make a Statutory Assessment**

Where the LEA decides to make an assessment they will, subject to the conditions in section 3.6 above, write to the parents within 6 weeks to inform them of the decision (letter SEN9).

Copies of this letter will be sent to the Psychological Service, the headteacher or early education provider, the health authority, the local social services department, the Child Advisory Social Work Service (if residential provision is under consideration), and to any other agency to whom the original SEN1/2 proposal letter was sent.

Where parental views are received after an SEN9 letter has been sent, the LEA will write (SEN10) to the parents to acknowledge receipt of their views.

### 3.8 **Decision NOT to make a Statutory Assessment**

Where the LEA decides not to make an assessment they will, subject to the conditions in section 3.6 above, write to the parents (SEN8) within 6 weeks to inform them of the decision, and giving the reasons for it. The parents will be advised of their right of appeal to the SEN & Disability Tribunal.

Copies of this letter will be sent to the Psychological Service, the headteacher or early education provider, the health authority, the local social services department, the Child Advisory Social Work Service (if residential provision is under consideration), and to any other agency to whom the original SEN1/2 proposal letter was sent.

3.9 The circumstances in which the LEA decides not to proceed will be exceptional, given that the initial decision to proceed was made on professional advice together, in some cases, following discussion by the LEA's Moderating Group. Such cases will normally only arise in circumstances where the parents views are strongly against an assessment, and where the initial decision to proceed was discussed by the Group who concluded that the evidence available did not support the need to carry out an assessment. All such cases will need to be considered carefully, on their individual merits. If necessary, the LEA will seek the further opinion of the educational psychologist involved.

## Seeking Advice

### 3.10 Time Limits

Regulation 12(6) prescribes that where the LEA has issued the notice to assess (SEN9 letter), "they shall complete that assessment within 10 weeks of the date on which such notice was given." The Regulations note that the LEA need not comply with this time limit:

....if it is impractical to do so because:

- (a) in exceptional cases after receiving advice.....it is necessary for the authority to seek further advice;
- (b) the child's parent has indicated to the authority that he wishes to provide advice to the authority after the expiry of 6 weeks from the date on which a request for such advice.....was received (in letter SEN9), and the authority have agreed to consider such advice before completing the assessment;
- (c) the authority have requested advice from the headteacher of a school.....during a period beginning 1 week before any date on which that school was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
- (d) the authority have requested advice from the head of SEN in relation to or other person responsible for a child's education at an early education provider..... during a period beginning 1 week before any date on which that early education provider was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
- (e) the authority have requested advice from a health authority or a social services authority.....and the health authority or the social services authority have not complied with that request within 6 weeks from the date on which it was made;
- (f) exceptional personal circumstances affect the child or his parent during the 10 week period.....;
- (g) the child or his parent are absent from the area of the authority for a continuous period of not less than 4 weeks during the 10 week period.....; or
- (h) the child fails to keep an appointment for examination or a test during the 10 week period.

[Regulation 12(7)]

In circumstances, therefore, where the LEA would be requesting advice from a headteacher or early education provider within a period starting one week before the end of the summer term, and ending one week before the start of the next autumn term, the LEA will request that the educational advice be submitted as if the start date of the assessment was the first day of the autumn term. This could, in these exceptional circumstances, give an assessment period as long as 17 weeks rather than 10 weeks. The LEA feels that this is necessary in order to ensure that all the professionals involved have adequate time to carry out a thorough assessment of the child. [This change of time scale complies with Regulation 12(7)]

### 3.11 Request for Written Advice

Where the LEA has decided to proceed with an assessment, they will now seek the advice as prescribed in Regulation 7:

- advice from the child's parents
- educational advice (headteacher or early education provider)
- medical advice from the health authority
- psychological advice
- advice from the social services authority, and
- any other advice which the LEA consider appropriate

When seeking advice, the LEA will provide the person concerned with a copy of any parental representations or evidence already submitted. The parents' 'advice' is different from the parental representations sought in the initial SEN1/2 proposal to assess notice. Such advice will be requested in the SEN9 letter used to advise the parents of the LEA's decision to proceed with the assessment. The following 'standard' letters will be used by the LEA to request the professional advice required:

- SEN11 - headteacher
- XX5 - early education provider
- SEN13 - educational psychologist
- SEN12 - health
- SEN14 - social services
- SEN16 - CASWS (residential provision may need to be considered)
- SEN15 - anyone else as appropriate (e.g. PSSS, BSS, VTS, Portage, etc.)

- 3.12 The Code notes (paragraph 7:74) that the LEA "should ask all concerned to respond within 6 weeks." The responsibility of health and social services goes beyond this, in that Regulation 12(8) imposes a duty on these two agencies to "comply with that request within 6 weeks of the date on which they receive it." Such agencies, however, need not comply with this time limit

.....if it is impractical to do so because -

- (a) exceptional personal circumstances affect the child or his parent during the 6 week period.....;
- (b) the child or his parent are absent from the area of the authority for a continuous period of not less than 4 weeks during the 6 week period.....;
- (c) the child fails to keep an appointment for an examination or a test made by the health authority or the social services authority respectively during the 6 week period.....

[Regulation 12(9)], OR

.....they have not before the date on which a copy of a notice has been served on them (i.e. the copy of the SEN1/2 letter in section 3.2 above, or the SEN6A OR B letter noted in section 2.55) .....produced or maintained any information or records relevant to the assessment of the child.

[Regulation 12(10-11)]

- 3.13 In the formal letter sent to the professional concerned, the LEA will specify the date by which the person's written advice must be received. Where this is not forthcoming by the date requested, and no explanation has been offered, the LEA will send out an advice reminder.

On a weekly basis, the Senior Administrative Officer will run off two reports from the SEN database ("19a-Chase EP Advice" and "19b-Chase Medical Advice"), saving them as WORD documents. Once checked and amended as necessary they will be emailed to the appropriate management or administrative staff of the Psychology Service and the Health Service, to ensure that the relevant services can chase the return of the necessary professional advice. For other advices the LEA will send out a standard letter (SEN20).

- 3.14 When requesting advice, the LEA may name specific 'persons' that they wish the professional offering advice to consult. The professional must then consult this specified 'person', together with anyone else thought to be appropriate.
- 3.15 Those offering advice will be asked to provide written advice relating to:

- (a) the educational, medical, psychological or other features of the case (according to the nature of the advice sought) which appear to be

relevant to the child's educational needs (including his likely future needs);

- (b) how these features could affect the child's educational needs, and
- (c) the provision which is appropriate for the child in light of those features of the child's case, whether by way of special educational provision or non-educational provision, but not relating to any matter which is required to be specified in a statement by virtue of section 324(4)(b)." [i.e. the name of the school]

[Regulation 7(2)]

3.16 The Code elaborates point (c) above:

The advice provided by all professionals should not be influenced by consideration of the name of the school at which the child might eventually be placed. Specific schools must not be suggested. Placement will be determined by the LEA a later stage and in the light of any preference stated by or representations made by the parents. But discussions between advisers and parents about the child's needs and the advisers' written advice may include consideration of various options, including the scope for mainstream education for the child and the type of school in which the child's needs might best be met, for example, mainstream, special or residential. But such discussions and advice should not commit the LEA, nor pre-empt the parents' statement of a preference, and any representations they might make or the LEA's eventual decision.

[Code 7:80]

3.17 The LEA is not obliged to seek the advice noted in 3.11 above if:

- (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)]

3.18 **Educational Advice**  
(see also – section 8 of the SEN Toolkit)

The educational advice sought will comply with the requirements of Regulation 8. Advice will be sought from the headteacher of any school which the child is

currently attending or from the head of SEN if the child is in provision made by an early years provider. If the child is not attending either of these, the advice will be requested from the headteacher of the Visiting Teacher Service, the Behaviour Support Service, or of James Brindley School - whichever is appropriate. If any of the child's parents is a serving member of Her Majesty's armed forces, advice will also be sought from the Service Children's Education Authority (SCEA).

The educational advice must normally be given by a qualified teacher. However, if advice is to be obtained from an early education provider and there is no qualified teacher then advice may be sought from a person responsible for his educational provision. If the headteacher has not taught the child within the preceding 18 months, the advice must be given after consultation with a teacher who has so taught the child.

The advice submitted

.....shall include advice relating to the steps which have been taken by the school to identify and assess the special educational needs of the child and to make provision for the purpose of meeting those needs.

[Regulation 8(5)]  
OR

.....shall include advice relating to the steps which have been taken by the provider to identify and assess the special educational needs of the child and to make provision for the purpose of meeting those needs.

[Regulation 8(6)]

Where it appears to the LEA that the child is hearing impaired, visually impaired or both, then, in accordance with Regulation 8(7), the educational advice must be submitted either by, or in consultation with, an appropriately qualified teacher.

The 'headteacher' will be requested to submit the advice on an SEP1 form. This will be Form 8A for a pre-school child, and Form 8B for a school child.

The LEA will consider, in the light of the evidence submitted, whether to seek separate advice from any external advisory teachers involved with the child over the past year. This will include teachers from the Visiting Teacher Service, Pupil and School Support Service, and Behaviour Support Service, as well as 'outreach' teachers from a special school or unit.

The LEA will request (letter SEN11) that the educational advice be submitted within 3 weeks from the date of the request. In circumstances where the LEA would be requesting advice from a headteacher or provider within a period starting one week before the end of the summer term, and ending one week

before the start of the next autumn term, the LEA will request that the advice be submitted within 3 weeks from the first day of the autumn term. [This change of date complies with Regulation 12(7)]

### 3.19 **Medical Advice**

(see also – sections 8 & 12 of the SEN Toolkit)

The medical advice sought will comply with the requirements of Regulation 9. The request for advice will be sent to the appropriate Senior Medical Officer, who will be responsible for the co-ordination of advice from all other health personnel. This may include advice from the child's general practitioner. The Medical Officer will be requested to submit the advice on an SEP2 form (Form 9), sending a copy to the Psychological Service.

The LEA will request (letter SEN12) that the medical advice be submitted within 6 weeks from the date of the request. The Medical Officer will be reminded that this is a statutory requirement under Regulation 12(8), subject to the exceptions noted in paragraph 3.12 earlier.

### 3.20 **Psychological Advice**

(see also – sections 8 of the SEN Toolkit)

The psychological advice sought will comply with the requirements of Regulation 10. This advice will be sought from an LEA educational psychologist. This person will be reminded that the advice must be submitted after consultation with any other psychologist who may have relevant knowledge or information relating to the child (e.g. clinical or social services psychologist).

The psychologist will be requested to submit the advice, using a broad format agreed with the LEA, and sending a copy to the appropriate Medical Officer. The LEA notes, and has no objection to, the Psychological Service's current practice of sending a copy of the psychological advice to the child's parents at the same time as it is sent to the LEA.

The LEA will request (letter SEN13) that the psychological advice be submitted within 6 weeks from the date of the request.

The LEA will also consider any advice from a fully qualified educational psychologist commissioned independently and submitted by the parents.

### 3.21 **Social Services Advice**

(see also – sections 8 & 11 of the SEN Toolkit)

The social services advice sought will comply with the requirements of Regulation 7, together with the guidelines given in section 8 of the SEN Toolkit.

The LEA will request (letter SEN14) that any social services advice be submitted within 6 weeks from the date of the request. The social worker concerned will be reminded that this is a statutory requirement under Regulation 12(8), subject to the exceptions noted in 3.12 earlier.

### 3.22 **Advice from CASWS**

(see also – sections 8 & 11 of the SEN Toolkit)

Advice from the Child Advisory and Social Work Service (CASWS) will be sought in all cases where residential provision of some form may need to be considered and where no other social worker is already involved.

The LEA will request (letter SEN16) that the advice of a qualified social worker be submitted within 6 weeks from the date of the request.

### 3.23 **Other Advice**

(see also – section 8 of the SEN Toolkit)

Any other advice thought necessary by the LEA, will be requested using letter SEN15, and will comply with the requirements of Regulation 7. The LEA will request that the advice be submitted within 6 weeks from the date of the request.

### 3.24 **Parents Failure to Attend an Examination**

When parents fail to attend the 1<sup>st</sup> appointment offered by Health, then the Doctor will write to the LEA to let them know and to give the date of the 2<sup>nd</sup> and final appointment that will be offered.

The LEA will then serve a notice on the parents under Schedule 26(3) of the Act "requiring the child's attendance for examination in accordance with the provisions of the notice". This notice will state:

- state the purpose of the examination,
- state the time and place at which the examination will be held,
- name the Principal Assessment Officer from whom further information may be obtained,
- inform the parent that he or she may submit any further information or views, and
- inform the parent of his or her right to be present at the examination.

The notice will be copied to the Parent Partnership Service so that the appropriate person can visit the parents to alert them to the consequences of failure to attend the appointment and to offer support in ensuring that the appointment is kept or an alternative date agreed.

If the parents still fail to attend this 2<sup>nd</sup> medical appointment then the Health service is unlikely to offer a 3<sup>rd</sup>. The LEA will therefore consider legal action against the parents.

- 3.25 For services other than Health, despite appointments being offered, parents may fail to attend for a professional 'examination' and will have done so without offering an adequate reason. This may, as a result, prevent the professional concerned from complying with the statutory time limit for submitting advice. In such a case, the professional should contact the appropriate Principal Assessment Officer for advice. It is likely that a formal notice will be served on the parents as under section 3.24.
- 3.26 Where a parent fails without "reasonable excuse" to comply with any requirements of a notice, he or she commits an offence if the notice relates to a child who is not over compulsory school age at the time stated for the examination. The parent may then be liable to a fine.