Parents can agree with the final statement and the LA, or the LA can appeal. The Code contains a list of objections that the LA can take to make sure that children are not put at a disadvantage compared to other children. These objections can be for the child’s learning difficulties and needs; the child’s family details; the type and name of the school listed by their LA; the provision to be made; the type of education to be provided; and the child’s educational achievement and points. There is a right of appeal to the Tribunal on these objections and points, and the LA’s argument must be on the record. The final statements must be made in writing and sent to the LA by the LA. The final statement will normally take the form of a written report, including any proposals for the child’s transition. The final statement also contains an appeal to the LA if parents do not agree with the final statement and the LA’s proposals for the child’s transition.
The duty to include in the main stream

Under Part 1 of SENDA 2001, LEAs have a duty to include in mainstream education all children who are considered to require special educational provision. This duty is now extended to include all children who have special educational needs, not only those for whom specific educational provision is made. This means that local authorities have a legal duty to ensure that all children have the opportunity to experience the benefits of mainstream education, whatever their special educational needs. This duty is applicable to children who are 5 years old or over. The Code aims to ensure that schools are fully aware of their responsibilities and are able to provide appropriate support for children with special educational needs.

Proposing an assessment

School health services or social services departments may apply to the LEA to assess a child suspected to require special educational provision, and the LEA is under a duty to carry out the assessment. The LA must ensure that there is a clear agreement on the role of health service professionals when assessing children suspected to require special educational provision.

The Code requires that schools and LEAs should ensure that children who require special educational provision are considered by their parents to be fully involved and consulted at all stages of the assessment process. This includes decisions about the type and level of support needed for the child.

Deciding to assess

Within six weeks of the LA deciding to go ahead with the assessment, the child’s parents must be informed in writing of the reasons for the decision and the basis on which the LA made its decision. The LA must also inform the child’s parents in writing of their right of appeal to the First Tier Tribunal. The LA must arrange to make reasonable adjustments for the child’s parents in respect of any application for a statement of special educational needs in relation to the assessment process.

Proposed statement

In the event of a child being assessed for a statement of special educational needs, the LEA must provide a draft statement of special educational needs to the child’s parents. The child’s parents must be informed of their right to request a re-assessment of the child’s educational needs.

Parents have at least 10 weeks in which to carry out the assessment. The LA should notify parents of all the arrangements made for the assessment, and include information about the type and level of support needed for the child. The LA must also inform the child’s parents in writing of their right of appeal to the First Tier Tribunal. The LA must also inform the child’s parents in writing of their right of appeal to the First Tier Tribunal.

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