

INFORMATION SHEET

HOW TO CHECK A PROPOSED STATEMENT OR A FINAL STATEMENT

You are given two weeks in which to say whether or not you agree with the wording of a proposed statement or proposed amended statement.

Don't panic. If the proposed statement comes in over the holidays, write to your local authority (LA) saying they are being unrealistic and ask for more time. You can ask for a meeting with an officer, but that rarely results in much change. If you do attend a meeting, try to take a partner/friend for support, to take notes, and to allow you time to consider what is being said. Don't agree to anything major at the time; instead, say you will confirm by email/post the next day so you have the chance to consider any suggestions.

Remember that, even if you agree the statement, you can change your mind and still have the right to appeal to the tribunal.

The statement itself

First, check the proposed statement carefully. Use two different coloured highlighters – one for Part 2 and one for Part 3.

- **Part 2** Highlight vague words and phrases – e.g., “significant”, “some”, “maybe”, “it is reported that”, etc. Mark any apparent contradictions. Remember that where there is conflicting evidence the LA is required to decide which it accepts and give reasons.
- **Part 3** Highlight vague words which render the provision unclear or imprecise – e.g., “access to”, “opportunities for”, “benefit from”, “as appropriate”, “according to clinical indicators”, “up to x hours of...”, “support individually, in pairs or in groups”, “input from”, etc. Check that provision is not stated in terms of bands, matrices or points. These are funding arrangements but not specific, detailed or quantified to your child's needs.
- **Part 4** Note that the school is not named at the proposed statement stage. Nonetheless, you should be trying to find out what the LA has in mind. They will ask you your views on this separately.

Appendices

Second, read and mark up each appendix, using highlighters of the same colour for material relevant to Parts 2 and 3 as you used on the statement itself.

- **Part 2** Highlight any important information not included in Part 2 of the statement if it may add important or more accurate evidence – e.g., statistical evidence of cognitive or achievement levels from an educational psychologist’s report. Check to see that any important medical diagnoses have been included and accurately so. Check that the evidence from one does not conflict with that of another.

Remember that Part 2 is likened in case law to a medical diagnosis and should therefore be clear, accurate and include all the main strengths and needs.

- **Part 3** Do the same for Part 3, looking in particular for any clear indications of type and detail and quantity of provision needed but not included in Part 3. It is particularly useful to look at the recommendations of the school on provision needed (but often ignored). Make sure all assessment results that show “equivalent age” or “percentile levels” are included – e.g., “at a chronological age of 10 years, she has a reading age of 9 years but cognitive level of 5 yrs 6 months”, etc. (always assuming the LA’s educational psychologist has gone into such detail!).

Remember that Part 3 is likened to a prescription to meet the needs set out in Part 2 and should be detailed, specific and quantified.

Your evidence

Third, consider what evidence you have to show that the statement is inadequate – e.g., recent reports from the school, independent professionals, your own advisory groups, etc., as well as any views you may have about what provision your child really needs. Note these briefly. Keep a copy of the document outlining your evidence as it will be important later.

You should now have a good idea of exactly what is wrong with the statement and what you want changed.

Write a letter to the local authority

Fourth, draft a letter to the LA treating each part of the statement separately and setting out the following.

- **Part 2** State to what extent Part 2 fails to meet the description of a diagnosis of need? List briefly the information that is either missing or inaccurate. What’s required is a summary list of those areas that should be included or deleted.
- **Part 3** State to what extent Part 3 fails to meet a specific, detailed and quantified prescription to meet the needs set out in Part 2? Here, refer to any vague words and phrases such as “access to”, etc., or vague banding systems that delegate the use of the money to the school rather than state the provision needed for the child.

It is valid to criticize the Objectives in the statement as these can always be described (justifiably) as vague aims and not target-related to the needs of your child. As a basis for an individual education plan (IEP), they will be meaningless. Watch out for such useless Objectives as those beginning “*To develop.....*”

You can refer, but in general terms, to your view that your child will need, for example, a higher level of learning support than stated, that LSAs should be trained and experienced, that your child needs direct therapy to meet the level of his/her needs, etc.

State that you wish the LA to address the deficits but do not attempt to go into detail.

Remember not to hold your breath for any major improvements as LAs rarely make many adjustments between proposed and final stage. It is usually a total waste of time trying to reason with LAs and going to meetings is really just a way of letting the authority delay. Best to get on with the job and ensure that the 8 week limit is observed and the statement finalised so you can get on with fighting for what your child really needs.

Also remember that without the necessary evidence you cannot reasonably ask for what is not provided in the appendices. Appendices written by LA professionals are nearly always kept vague, for a number of reasons best known to the authorities themselves. Consequently, you will probably need to commission your own independent assessments and obtain your own evidence if you are forced to appeal to the SENDIS Tribunal to get what is needed.

- **Part 4** Consider Part 4 alongside your response to Parts 2 and 3, and ask yourself if the school the LA has in mind is appropriate. Is it able to meet the provision set out in Part 3? Does the information you have seen so far from the LA suggest that the school can successfully meet your child's need? Are there other schools that may be more suitable? For example, if the LA wants to send your child to a school for Severe Learning Difficulties or Profound and Multiple Learning Difficulties children, yet the evidence points to your child instead having Moderate Learning Difficulties or being autistic, make it clear you will not accept Part 4 on the grounds that Part 2 does not support such an unsuitable placement.

You will probably find that the LA wants to place your child in a particular school even though the school may not yet have assessed your child. Many schools have only the proposed statement to go by and, if that is inaccurate or vague, you cannot be sure that the school is right for your child.

Visit any schools suggested by the LA and look at other appropriate schools yourself.

Schedule

The LA has 8 weeks from the date of issue of the proposed statement before it must issue the final statement. Don't let them go over the date. If they do, remind

them that they risk your taking legal action by way of Judicial Review. Even if you have been asked to attend a meeting during this time, the 8-week deadline still applies.

If you are pretty sure you will need to appeal the statement when it is finalized, remember to provisionally book your expert witnesses and independent assessments/reports. Once the final statement is issued you will have only 2 months in which to appeal and will need to have most of your evidence ready to send in with your reasons for appeal.

Checking the Final Statement

If you are not happy with it then do another quick check as above and you will be able to use your concerns as part of your reasons for appeal to the Tribunal. The same shortcomings and vagueness will be there. To take your appeal on you will need hard evidence to argue your case.

These guidelines are intended to assist parents check statements of SEN and do not constitute legal advice and should not be relied on as such. SOS!SEN is not a law firm and its helpers are not lawyers. Specific advice should be sought about your particular circumstances.