

SECTION 6: CHILDREN UNDER COMPULSORY SCHOOL AGE – SERVICES, ASSESSMENTS AND STATEMENTS

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¹ Under Article 21 (Assessment of educational needs of children under two) of the 1996 Order.

About this Section

6.1 This Section of the SEN Code of Practice (the Code) sets out the approach regarding children who are under compulsory school age and who have, or may have, special educational needs (SEN). It includes:

- the arrangements for special educational provision for children under compulsory school age who have, or may have, SEN;
- assessment and, if appropriate, making a 'Statement of Special Educational Needs' (a Statement) for a child under age 2; and
- assessment and, if appropriate, making a Statement for a child over age 2 who has not yet attained compulsory school age.

This Section is underpinned by:

- Article 13 (General duty of the Education Authority (EA) towards children for whom it is responsible);
- Article 14 (Duties of health and social care boards and health and social care trusts);
- Article 15 (Assessment of educational needs);
- Article 21 (Assessment of educational needs of children under two), supported by draft regulation:
 - 14(6) and (7) (Time limits and prescribed information relating to assessment); and
- Article 21ZA (Appeals against decisions under Article 21).

(of the Education (Northern Ireland) 1996 Order)

Key point: See the Glossary for the definition of the key terms used in this Code.

Introduction

6.2 The SEN and Inclusion Framework (the SEN Framework) places the child firmly at the centre of a graduated response of special educational provision for those children who have, or may have, SEN. The definition of SEN in the Article 3 of the 1996 Order includes those children who are under age 2 and those who are over age 2 but not yet compulsory school age. (See paragraph 1.19). The fact that a child has, or may have, SEN may be identified in their early years prior to reaching compulsory school age. Where technology and electronic communication is available, and with the agreement of the parent, any Notice or document served under this Section may be transmitted using this medium.

6.3 In the context of the SEN legislation, teachers in nursery schools and nursery classes in primary schools (see paragraph 1.1) are required to take all reasonable steps to identify and provide for those pupils attending the school who have SEN. (See Section 3). While not all early years' settings fall within the legislative framework for SEN, it is considered good practice to adhere to the principles of this Code. (See paragraph 1.12). The SEN legislative base also requires the Education Authority (EA) to determine, for those children with SEN for whom it is responsible, if it is necessary for it to provide special educational provision - this includes children in their early years.

6.4 'Learning to Learn' sets out the Department of Education's (DE) overarching policy for Early Years Education and Learning. (See DE website www.education-ni.gov.uk). It includes identifying and helping address barriers to learning, including children with SEN. Children develop at different rates and their needs change over time, as does the nature of the support and intervention required to help each child fulfil their potential. It is recognised that before a child reaches compulsory school age, effective early identification and intervention is key to a child's progress. In meeting the needs of children in their early years, early years' practitioners should be guided by any guidance and good practice guidelines provided by DE, the Council of the Curriculum, Examinations and Assessment (CCEA) and the EA and other relevant

guidance. For example, during the pre-school year, early years' settings² should be guided by '*Curricular Guidance for Pre-School*'.³ In addition, DE's '*SEN Early Years Supplement*' provides a resource designed specifically for practitioners working in the early years' sector with children who have been identified as having SEN and/or a disability.⁴ See DE website: www.education-ni.gov.uk.

Advice and Information for Parents

6.5 The EA is required to arrange and make available clear and easily understood advice and information for parents of any child with SEN about any matters relating to those needs, including parents of children under compulsory school age. The EA is required to take such steps as it considers appropriate for making its advice and information services made known to nursery schools, nursery classes (in primary schools) and voluntary and private pre-school settings. This advice and information should include clear and unambiguous parental guidelines on the statutory assessment and statementing process for children under compulsory school age and encourage parental participation in any assessment of their child. The guidelines should include information for parents as to their rights in relation to requesting a statutory assessment, the implications of a Statement and the associated appeal rights. (See Section 11).

EA Plan of Arrangements for Special Educational Provision – children under compulsory school age

6.6 Early intervention and, where appropriate, special educational provision, for children in their early years, is vital to help support children with SEN, whether during the pre-school year, or earlier. The EA should have a clear, transparent and easily accessible model to deliver special educational provision for children which is both responsive and consistently delivered throughout Northern Ireland. The EA is required to set out annually a plan of the arrangements made or those proposed to be made,

² Nursery schools and classes and voluntary and private settings that receive funding from the Department as part of the Pre-School Education Programme (which provides one year of non-compulsory pre-school education).

³ See www.ccea.org.uk/curriculum/pre_school.

⁴ See DE's homepage www.education-ni.gov.uk for further information.

for special educational provision.⁵ This plan should include, and clearly signpost, the SEN services it will provide to support children not yet of compulsory school age. (See paragraphs beginning 2.17).

6.7 In keeping with the statutory duty on the EA and health and social care authorities (which includes the Health and Social Care (HSC) Trusts) to co-operate in the form of a joint plan for the identification, assessment and provision of services to children who have, or may have, SEN.⁶ It is important that any multi-disciplinary arrangements which target children who are not yet of compulsory school age are clearly signposted. (See Section 9). This would include relevant groups and organisations such as:

- statutory (nursery schools and nursery classes);
- non-statutory early years' and pre-school settings (private and voluntary); and
- Regional Integrated Support for Education in Northern Ireland (RISE) available to schools and pre-school settings.

6.8 In the practical delivery of services in respect of children under compulsory school age, the EA should have clear and transparent arrangements in place to determine if a child, who is drawn to the EA's attention because it is thought that they have, or may have, SEN:

- is known to the EA and has already had the benefit of an intervention through the EA plan of arrangements for special educational provision, whether from a service targeted to children under compulsory school age or a specific service to address a type of SEN; or
- if plans are in place for such intervention or further intervention.

⁵ Under Article 6A (Duty to prepare and publish plan of arrangements for special educational provision) of the 1996 Order.

⁶ Under Article 12A (Co-operation to identify, assess and provide services to children with special educational needs) of the 1996 Order.

6.9 The timely intervention by the EA through the delivery of advice, support or resources, directly to the child or to the early years' setting the child attends, may result in suitable progress being made and negate the need for the child to be considered for an assessment of their educational needs. It also may clearly identify those children where a statutory assessment is needed. In addition, a child may make progress through multi-agency services delivered through the EA and the health and social care authorities⁷ joint plan for identification, assessment and the provision of services. (See Section 9).

6.10 Whether the EA is considering the provision of advice or support from one of its EA services or an assessment of a child's educational needs, the EA should arrange for young children to be assessed in a place where the child **and** family feel comfortable. The parent(s) perspective, as the first educator(s) of the child, will be particularly important due to the age of the children.

6.11 Children with a learning difficulty or developmental delay, whose parents who are deaf or do not have English as a first language, may need additional support in communicating their child's needs. The EA should ensure that appropriate help is provided, including sign language / interpreter services if necessary, so that early concerns may be communicated about the child's behaviour, health and development. (See Section 10). Without such support early identification and intervention may be delayed or less effective.

Assessment of Children Under Age 2

6.12 When a child under 2 is drawn to the attention of the EA⁸ by a Health and Social Care (HSC) Trust (normally identified through a HSC Trust Child Development Clinic or a Health Visitor, as a result of developmental checks), or following a parental request for an assessment to be made or from another source, it is probable that the

⁷ Health and social care authorities: means a health and social care trust and the Regional Health and Social Care Board established under Article 10 of the Health and Personal Social Services (NI) Order 1991.

⁸ Under Article 21 (Assessment of educational needs of children under two) of the Education (Northern Ireland) Order 1996.

child will have a particular condition or major health problem which has caused concern at an early stage.

6.13 Under Article 21 of the 1996 Order, where the EA is of the opinion that a child under 2 has, or may have, SEN⁹ and it is necessary for the EA to determine the special educational provision which the learning difficulty calls for, the EA:

- may, with the consent of the child's parent, make an assessment of the child's SEN; and
- is required to make an assessment on the request of the child's parent.

6.14 The EA is required to ensure it has suitable arrangements in place in order to seek the consent of a parent to make an assessment if such consent has not previously been obtained.

6.15 Unlike the statutory procedures which are applicable to assessments of children who are aged 2 and over, assessment of children under 2 need not follow that same process as set out in Section 4. Under Article 21 of the 1996 Order, an assessment of the educational needs of a child under 2 can be made in the manner the EA considers appropriate. However, the arrangements for assessments should provide for timely assessments. The assessment should be informed by evidence, advice and information from those who know the child. This would include, the child's parent, health professionals and, if appropriate, an early years setting the child attends, to allow an accurate assessment of the child's needs. The EA should have arrangements in place to ensure a consistent approach and application of such assessments across Northern Ireland.

Key point: the EA should have arrangements in place to ensure a consistent approach for assessments of children under age 2.

⁹ Under Article 21 (Assessment of educational needs of children under two) of the Education (Northern Ireland) Order 1996.

6.16 Within these arrangements the EA will want to consider if any resource, advice or support made available through its plan of arrangements for special educational provision would help address the child's SEN. Individual programmes of support should first be considered by the EA according to the child's particular needs. For very young children, the EA should consider home-based programmes, peripatetic services for children with hearing or visual impairment or support through the EA's service to support children under compulsory school age with SEN. Some parents may prefer to attend a centre, perhaps in combination with home-based support.

6.17 Statements will be rare for children under 2; the procedures are not specified in legislation. The EA should have arrangements in place to ensure that a consistent procedure and approach is adopted across Northern Ireland for deciding whether it needs to make and maintain a Statement for a child who is under age 2. Within that procedure, in order to make an accurate assessment of the child's needs, the EA should ensure that it draws information from those who have knowledge of the child, including the child's parent and any relevant health professionals.

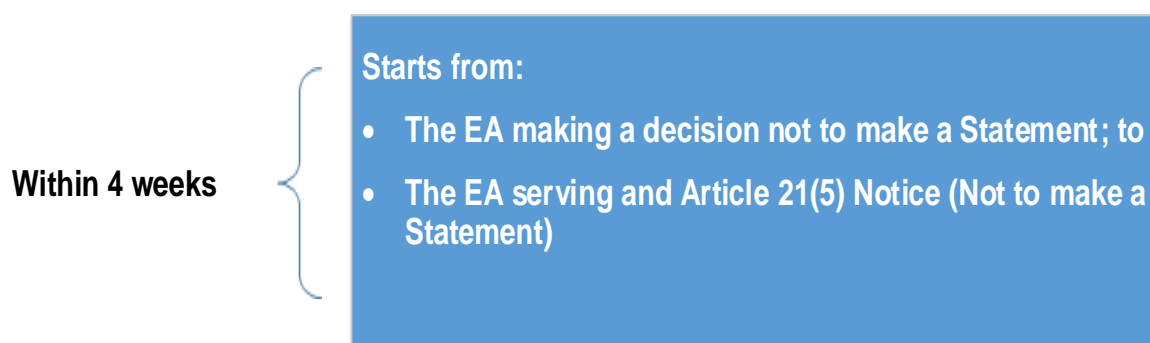
Outcome: Not to Make a Statement for a Child Under 2¹⁰

6.18 The EA's assessment will determine whether or not a Statement should be made for the child concerned. If, after making an assessment of a child under age 2, the EA concludes that it **will not** make a Statement, it is required to serve an **Article 21(5) Notice** on the child's parent **within 4 weeks** of reaching that decision including the reasons for it.¹¹ (See paragraph 6.2 and Glossary "serve a Notice" with regard to use of available electronic communications to transmit Notices).

¹⁰ Under Article 21 (Assessment of educational needs of children under two) of the Education (Northern Ireland) Order 1996.

¹¹ Draft regulation 14(6) (Time limits and prescribed information relating to assessment).

Diagram 6.1: Statutory Timeframe for the EA to Serve an Article 21(5) Notice



Information Box 6.1: Required Content of an Article 21(5) Notice

An Article 21(5) Notice is required to include:

- the EA's decision not to make a Statement;
- the reasons for that decision;
- the right to receive, on request, a copy of the advice given to the EA on which the decision was based;
- advice and information available from the EA under Article 21A of the 1996 Order as amended;
- information about mediation arrangements under Article 21C of said Order for a person who intends to appeal to the Tribunal of said Order;
- the requirement under Article 21C of said Order to obtain a mediation certificate before any appeal can be made to Tribunal;
- the right of appeal to the Tribunal (under Article 21ZA(1)(a)); and
- information under Article 13 of the General Data Protection Regulations.

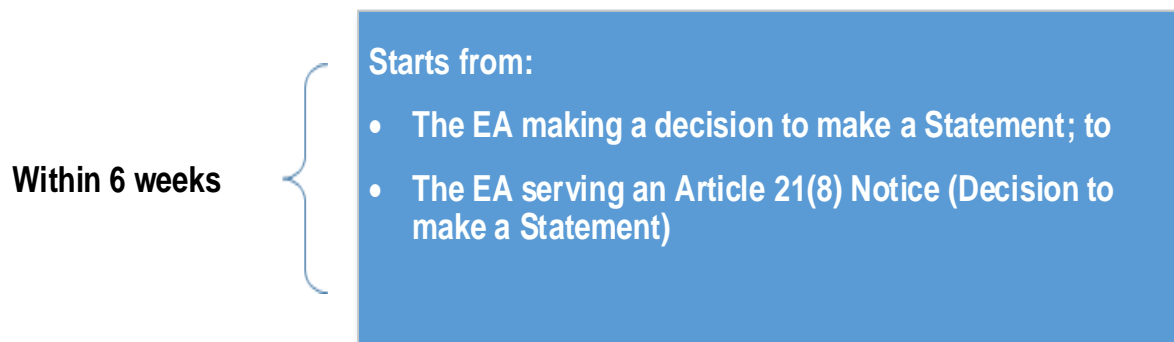
6.19 The parent has a right to receive, on request, a copy of any advice given to the EA and used in making its decision not to make a Statement. It is considered good practice that the EA include a copy of any such advice upon which the EA's decision was based along with the Article 21(5) Notice.

Outcome: To Make a Statement for a Child Under 2

6.20 Where, in light of an assessment, EA decides that it is necessary to determine the special educational provision that a child's learning difficulty calls for and the EA is required **to make or amend a Statement** for a child under 2. **Within 6 weeks** of reaching that decision the EA is required to serve an Article 21(8) Notice on the child's

parent.¹² (See paragraph 6.2 and Glossary “serve a Notice” with regard to use of available electronic communications to transmit Notices).

Diagram 6.2: Statutory Timeframe for the EA to Serve an Article 21(8) Notice



Information box 6.2: Required Content of an Article 21(8) Notice

An Article 21(8) Notice is required to include:

- advice and information available from the EA under Article 21A of the 1996 Order as amended;
- information about mediation arrangements under Article 21C of said Order for a person who intends to appeal to the Tribunal;
- the requirement under Article 21C of said Order to obtain a mediation certificate before any appeal can be made to Tribunal;
- the right of appeal to the Tribunal (under Article 21ZA (1) (b)); and
- information set out at Article 13 of the General Data Protection Regulations.

Statements for Children Under 2

6.21 At the same time as serving the Article 21(8) Notice, the EA is required to serve a copy of the Statement or the amended Statement on the parent. The Statement is required to include a description of the EA’s assessment of the child’s SEN¹³ and specify the special educational provision. The Statement should include:

¹² Draft regulation 14(7) (Time limits and prescribed information relating to assessment).

¹³ Under Article 21(Assessment of educational needs of children under two) of the Education (Northern Ireland) Order 1996.

- a) all available information about the child, with a clear specification of the child's SEN;
- b) a record of the views of the parents and any relevant professionals;
- c) a clear account of the services being offered, including the contribution of the education service and the educational objectives to be secured and contributions required from any statutory and voluntary agencies; and
- d) a note of the arrangements for monitoring and review.

6.22 While a Statement issued in respect of a child under 2 does not have to be in the same format as the Statement for a child of compulsory school age, it is good practice that it should broadly follow the same format. (See Section 5, paragraph 5.9).

Monitoring of Progress of a Child Under 2 with a Statement

6.23 The EA should ensure that any specific educational expected outcomes set out in the child's Statement are regularly reviewed and, if necessary, revised. For very young children, reviews more frequently than once a year are likely to be necessary depending on the child's individual circumstances. Any action will require close collaboration and co-operation with health services. (See Section 9).

6.24 Careful monitoring and recording of the child's progress should be a priority. Records should contain all information relevant to identifying and providing for the child's SEN to allow for continual review of the child's individual needs and the appropriateness of the provision. Recording such information will assist understanding of the child's needs and provision made once the child is over 2. While not a requirement, and recognising the child concerned is under age 2, the records may be developed in keeping with relevant fields in the Personal Learning Plan (PLP), for example, an outline of the special educational needs and the types of special educational provision being made, the child's circumstances.

Children Aged 2 and Over - Identification of SEN

6.25 Grant-aided schools, nursery schools and nursery classes are expected to follow broadly the same procedures for identifying and meeting young children's SEN as are recommended for children of compulsory school age. (See Section 3). This includes special educational provision mapping (see paragraphs beginning 3.23) and developing and reviewing a Personal Learning Plan (PLP) for each child with SEN. (See paragraphs beginning 3.75). DE funded non-statutory, private and voluntary pre-school education settings are expected to follow the same procedures as grant-aided nursery school and nursery classes with regard to children who have or may have SEN, but there is no statutory duty for such settings to have a Personal Learning Plan for each child with SEN.

6.26 Where the child is attending non-educational provision, for example a pre-school education centre, the staff will need advice from the EA about the basis for a referral for formal assessment and about the nature of the information they need to record.

6.27 Children's development and subsequent progress as a school age pupil may be affected by their health. All nursery classes, nursery schools and other early years' settings for the care of young children, should be aware of how to obtain information and advice on health and education related matters. The EA should ensure that its plan of arrangements for special educational provision is clearly signposted. (See paragraph 2.17). These settings should also draw the parent's attention to the EA's arrangements for the provision of advice and information. (See Section 11). See EA website <https://www.eani.org.uk>.

6.28 Where a HSC Trust forms the opinion that a child, who is age 2 or over, but who has not yet reached compulsory school age has, or may have, SEN, they are required to inform the parents, and give them an opportunity to discuss their views. After such discussions, the relevant HSC Trust is required to bring the child to the attention of the EA.¹⁴ At the same time the HSC Trust are required to give parents the

¹⁴ Article 14 (Duties of health and social care boards and health and social care trusts) of the Education (Northern Ireland) Order 1996.

full range of local statutory and voluntary services which might be able to give the parent advice or assistance about the child's SEN. Under the Children (Northern Ireland) Order 1995, the HSC Trust is required to produce written information on the full range of services available for children in need and ensure that such information reaches those who might need it.

6.29 Within the context of co-operation (see Section 9) and multi-agency working, early contact between the EA and health services will be very important in order to ensure that there is no physical cause for the difficulty in question (such as a hearing or visual impairment) and to secure a multi-professional view and advice on the possible cause and the effective management of any challenging behaviour.

6.30 In the delivery of resources, advice and information for children who are age 2 or over but not yet of compulsory school age, the approach should be in keeping with that as set out in paragraphs 6.8 and 6.9.

Assessment of Children Aged 2 or Over

6.31 The EA is responsible for a child who has attained age 2 and has been brought to the attention of it, because it is thought they have, or may have, SEN.¹⁵ Where a HSC Trust forms the opinion that a child has, or may have, SEN, they are required to inform the child's parent and having given the parent the opportunity to discuss the opinion with the HSC Trust, bring the child to the attention of the EA.

6.32 As outlined above, the EA should have in place agreed procedures for acting quickly and consistently applied across Northern Ireland in order to ascertain whether the needs of such children require specific intervention. The EA may discuss with the HSC Trust how best to take the matter forward within the context of the joint plan. (See Section 9). At this stage advice may be sufficient; or referral to a specialist EA service may be made; or the child's learning difficulties may require a statutory assessment to be made which may, or may not, result in a Statement being made.

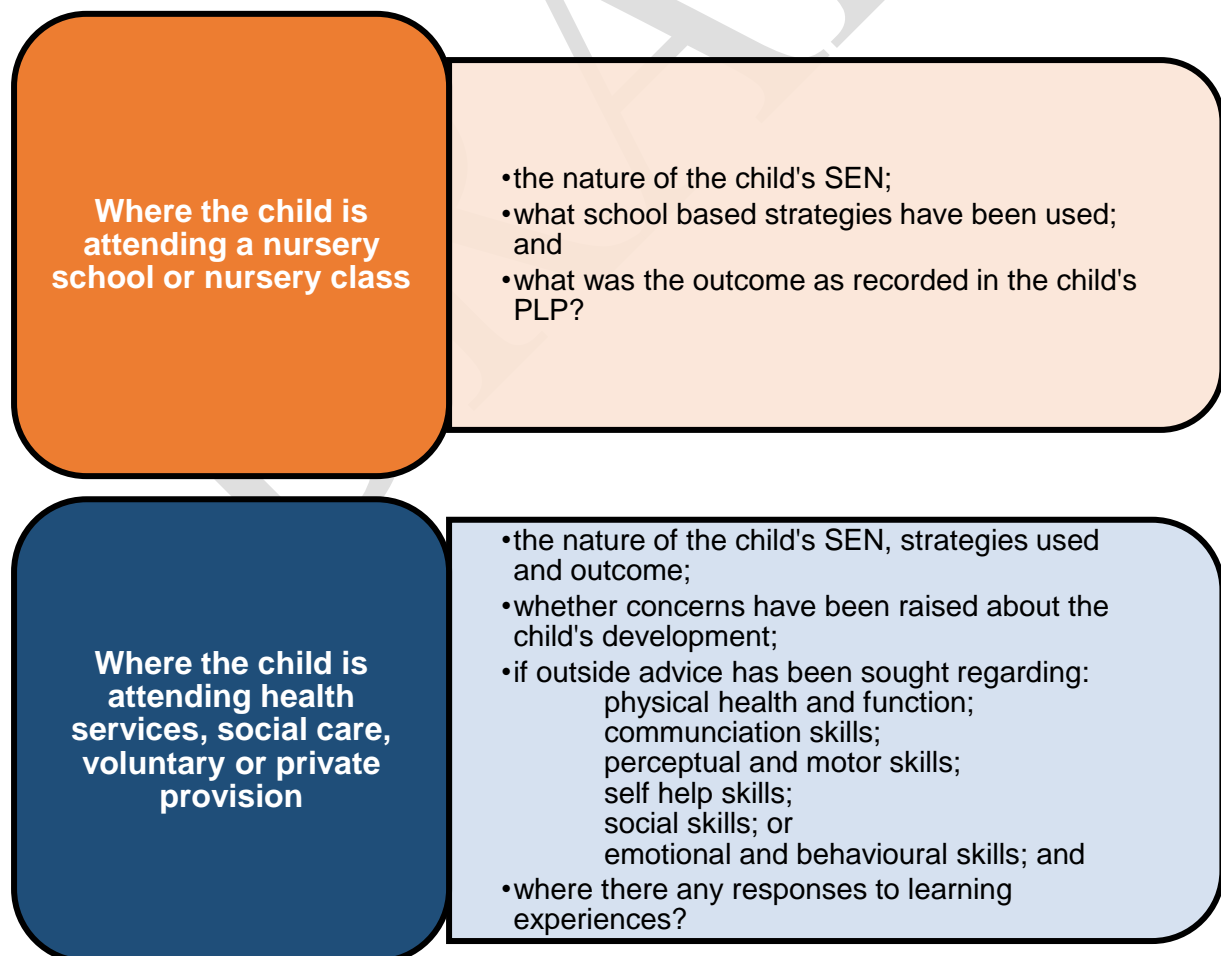
¹⁵ Under Article 13 (General duty of the EA towards children for whom it is responsible) of the Education (Northern Ireland) Order 1996.

6.33 Where referral for statutory assessment is made or in the case of a HSC Trust drawing a child to the attention of the EA, the child will have demonstrated significant cause for concern. The EA will seek evidence from those who referred the child that a strategy or programme has been tried for a reasonable period of time without success. The EA will also seek documentation about the child's difficulties and any action undertaken to deal with them, including parental involvement. The child's PLP will be used for this purpose.

6.34 The EA will then assess the evidence and decide whether the child's difficulties or developmental delays are likely to be supported only through a multi-professional approach, which will require monitoring and review over a period of time. Contributions from other service providers are likely to be of key importance.

6.35 In considering statutory assessment, the EA should ascertain:

Diagram 6.3: Matters the EA should consider



Statements for Children Aged 2 or Over

6.36 Where a Statement is required to be made, this should follow the same Steps, statutory timeframe and format as for other children as set out under Section 5 and Annex 11 which sets out the Prescribed Format and Content of a Statement.

6.37 The EA should ensure that parents have access to all information (see Section 11) on the range of suitable provision available and may wish to offer parents the opportunity to visit such provision and discuss any aspect of the provision with a Named EA Officer.

6.38 While Section 7 sets out the processes for a periodic (annual) review of each Statement, to promote good practice, the EA should informally review very young children's Statements at least every 6 months to ensure that the provision is still relevant to the child's needs as they develop. For the child attending a nursery school or nursery class, the information recorded on the child's PLP will be of particular significance. (See Section 3 starting at paragraph 3.75). Such reviews would complement the statutory annual review of the child's Statement. The informal reviews would not require the same detailed documentation as the annual review, although they should reflect the significant changes which can take place in the progress of a child at this age.

Special Educational Provision

6.39 For very young children, access to a home-based learning programme or the services of a peripatetic teacher for the hearing or visually impaired, may provide the most appropriate help. In the case of a child with a behavioural difficulty, the advice of the clinical psychologist at a child development centre or an educational psychologist, may enable the child to remain within an existing service. In some cases it may be appropriate for the child to attend a nursery class or school (either within a mainstream or special school setting) or other pre-school provision.

6.40 All EA services and multi-agency services, delivered through the joint plan

referred to in Section 9, paragraph 9.11, working with young children, including home-based learning programmes, should have clear processes and pathways in place on how to access their services. They should indicate the kind of support which can be provided and any priority admission arrangements.

6.41 If a child is on a child protection register or there is another welfare concern, the EA and the relevant HSC Trust may jointly arrange to specify and monitor the provision required to meet the child's needs. If the child is looked after by a HSC Trust, the EA's assessment could form part of the records created by the HSC Trust. (See Section 10, paragraph 10.25).

Moving to Primary School

6.42 In some instances a child may have received considerable support through EA or multi-disciplinary services without the need for a Statement. If it is decided that the child's needs will require a Statement before entry to primary school, attention should be paid to parental views and **all** information available from the full range of agencies involved in the assessment process.

6.43 It is important that for those children with a PLP, the consent of the parent is sought to transfer a copy of the child's PLP to the new school (on request). (See Section 3 paragraph 3.85). All schools will wish to devise strategies to assess a new pupil's current levels of attainment on entry to ensure that they build upon the pattern of learning and experience already established in the early years' setting. If there is a SEN, the principal, Learning Support Co-ordinator (LSC) and the child's teacher should:

- a) use information arising from the child's early years' experience to provide starting points for learning;
- b) identify and focus attention on the child's strengths and weaknesses and highlight areas for support within the class;
- c) take action to develop a PLP and, if appropriate, alert relevant professionals;

- d) ensure that ongoing monitoring provides regular feedback to teachers and parents;
- e) seek to determine what the child knows, understands and can do, as well as to identify any learning difficulties; and
- f) involve the parent(s) in developing and implementing learning programmes at home and in school.

6.44 The outcome of observations from a wide range of service providers will help schools to prepare an entry profile for children who may experience difficulties. The EA should seek to ensure that guidance is in place for all service providers as well as parents to help them understand the assessment and referral arrangements so that a child's progress is carefully monitored and recorded in order to inform any future assessment procedure.

Appeals

6.45 Section 12 applies in the event of parent intending to appeal a decision made by the EA regarding the assessment of child under two.