

To all Directors of Children's Services

22 January 2009

Dear colleague

Guidance on meeting the needs of children from Service families with a statement of special educational needs

1. *The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans*¹ set out a strategy to ensure that service personnel and their families should not be disadvantaged by the military lifestyle. It highlighted the effect the mobility of Service families can have on the continuity of support for meeting children's SEN. This letter gives guidance on meeting the needs of children from Service families who have or have had an SEN statement. A separate letter will be going to schools which will focus in particular on children with SEN but without statements.
2. This letter is of most interest to local authorities which have Armed Forces bases within their areas. However, many Service personnel do not live on base and so guidance applies to any local authority which has a Service family that has a child or children with SEN living in its area. The Service child marker, introduced to the Annual Schools Census in January 2008, should make it easier to identify Service children on school rolls.
3. Many Service families are highly mobile, moving between local authority areas in England, between England and other parts of the UK and between England and abroad. The parents of children with SEN statements express concern about the lack of continuity in special educational provision this can lead to. Because of the frequent moves many Service families can make, it is particularly important that special educational provision is put in place speedily when a child from such a family arrives in a new local authority. Local authorities should work with schools to ensure that the mobility of Service children with SEN does not prevent the timely provision of appropriate support.
4. Local authorities and schools should be aware that Service parents who have children with SEN are encouraged to register their children with Children's Education Advisory Service (CEAS), a Ministry of Defence (MoD) service established to provide information, advice and support in relation to any educational issue which parents wish to raise. This registration service enables CEAS to work with Service parents, schools and local authorities to facilitate the smoothest possible transfer between schools, authorities and countries of Service children with SEN. MoD regulations require Service parents with children at School Action Plus or with statements to register their children with CEAS if they are offered assignments (postings) overseas where it is possible for them to be accompanied by their families. Contact details for CEAS can be found at the end of this letter.

¹ *The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans* (Command Paper CM7424, July 2008).

Family moves within England and between England and Wales

5. Where children with statements transfer between local authorities in England, the “old” authority is under a duty to transfer the statement to the “new” authority and the new authority must arrange the special educational provision set out in the statement.² Transfers of statements should occur at the time of the child’s move or as soon after the child moves as is possible. Where Service families are moving between Armed Forces bases and those moves can be anticipated, the Department recommends that the local authorities concerned to establish protocols for copies of statements to be sent ahead of the date of transfer so that the special educational provision can be made as soon as the child arrives in the new authority. Within the six weeks of the formal transfer of the statement the new authority must serve a notice on the child’s parent informing them that the statement has been transferred, whether the authority proposes to make an assessment and when they propose to review the statement. Any changes in the special educational support provided through statements should be carefully explained to parents and parents must be told of their right to appeal to the First-tier Tribunal (Special Educational Needs and Disability) if amendments are made to the special educational provision set out on a statement or if the local authority proposes to “cease to maintain” the statement.

6. Under Regulation 23 of the “SEN Regulations”, English local authorities must transfer statements when a child moves from England to Wales and the same duties apply to the new authority where a child with a statement moves from Wales to England as if the child had arrived from another English authority. Parallel Regulations impose the same duties on Welsh local authorities. Again the transfer of statements in these cases should be completed as soon as possible and the Department recommends that where transfers can be anticipated copies of statements are transferred before the child moves.

Family moves to and from the rest of the United Kingdom

7. Such duties do not apply when children are moving between England and either Scotland or Northern Ireland, however, to ensure continuity of provision, sending and receiving information about a child’s needs, whether in the form of an SEN statement or a Coordinated Support Plan in the case of Scotland, is extremely important.

8. Where the Service family of a child with an SEN statement is posted from England to Scotland, Northern Ireland or abroad the statement lapses and the educational provider in the new posting is under no duty to make the special educational provision set out on the statement. This means that when

² Regulation 23 of The Education (Special Educational Needs) (England) Consolidation Regulations 2001 – the “SEN Regulations”. The duty to arrange the special educational provision applies except for arranging provision at the school named on the statement where that is no longer practicable.

these children return to England it is the duty of their local authority of destination to, where necessary, assess their special educational needs and draw up a statement starts anew. The statutory time limit for assessing children's SEN and drawing up statements is 26 weeks. For children from Service families who may move out of England and Wales and back again several times during their school careers this can lead to significant gaps in them receiving appropriate special educational provision.

Family moves to and from abroad

9. Service families' moves to and back from abroad can place greater difficulties in ensuring continuity of SEN provision. Service Children's Education (SCE), an agency of the Ministry of Defence, provides education for the children of Service families based in Germany, Cyprus, Brunei, Gibraltar, Belize and the Falkland Islands. SCE seeks to maintain and make the provision set out in the statements of children who had them before arriving in these countries. SCE also draws up its own Summaries of Need for some children returning to UK local authorities.

10. As with transfers between local authorities within England, the swift transfer of information between local authorities and SCE is extremely important in order to ensure continuity in the special educational support provided to children who have had statements and are transferring to and from local authorities in England and SCE schools abroad. While local authorities are not under a statutory duty to transfer statements to SCE when children move schools to be educated abroad, the "SEN Regulations" provide for a statement to be disclosed, without the child's consent, to persons to whom, in the opinion of the authority concerned, it is necessary to disclose the statement in the interests of the child.³ The Department recommends that, arrangements are made with SCE so that statements are disclosed to SCE before or at the time a child moves from England to be educated in an SCE school. Where an authority requires assistance contacting an SCE school, this can be sought from CEAS using the contact details at the end of this letter. The Department, through the National Strategies, will be drawing up protocols for good working arrangements between local authorities and the SCE.

11. When one of these children returns from an SCE school abroad and the local authority decides that it is necessary to assess the child's special educational needs in order to determine whether it is necessary to draw up a new statement, the local authority is under a duty to seek advice from SCE.⁴ (Please note the requests should be directed to CEAS.) In the meantime in determining how to meet children's needs pending the outcome of any assessment, local authorities must act reasonably. This means that they must take into account all available information about children's needs and the provision necessary to meet those needs in exercising their functions.

³ See Regulation 24 of the "SEN Regulations".

⁴ See Regulation 8(1)(d) of the "SEN Regulations".

This information must be taken as a starting point. Where children are returning from overseas, statements which SCE has “maintained” while the child is being educated in one of its schools or any summaries of need drawn up by SCE should be used by local authorities to help them decide what provision a child should have while the child is being assessed. SCE sends all statements and summaries of need that it has “maintained” to CEAS when a child returns to the UK from one of its schools overseas.

12. A joint Ministry of Defence/DCSF project, led by SCE, has developed guidance called *Mitigating Mobility* which includes advice on meeting children’s SEN. This can be obtained from <http://www.ncsl.org.uk/comms-t2associates>. In addition, Service Children in State Schools (SCISS) brings together the heads of schools and local authority officers from areas in England with a significant Service Children population. SCISS has published a handbook. This includes information about Service children with SEN. The handbook can be downloaded from www.ceas.mod.uk.

13. A further commitment contained in *The Nation’s Commitment* was that when the SEN Code of Practice is next revised paragraphs on meeting the SEN of children from Service families will be included. Those paragraphs will become part of the statutory guidance set out by the Code.

Monitoring these arrangements

14. The Department wishes to monitor the impact of this guidance. If local authorities have any feedback or are experiencing difficulties in implementation, they should contact their SEN Regional Adviser at the National Strategies.

Yours faithfully



Hardip Begol

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SEN and Disability Division

The contact details for the Children’s Education Advisory Service (CEAS) are as follows:

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