

Overview of the law regarding time limits in annual reviews

A briefing for Parent partnership Services

At what point has an annual review of a statement been completed?

Legally, the annual review of a statement has taken place only at the point when the local authority makes a decision whether to maintain the statement as it is, amend the statement or cease to maintain the statement. This means that the gathering of evidence, the review meeting, the recommendations made by the review meeting, and the final decision by the local authority must all have been undertaken for the annual review to have been legally completed.

The full details of the annual review process are detailed in the Education (Special Educational Needs (England) (Consolidation) Regulations 2001 (as amended).

How long does a local authority have to complete an annual review?

The law states that the local authority must complete the annual review process within twelve months of the last annual review or, if this is the first year of the statement being maintained, within twelve months of the statement being issued. This means that if a statement was issued in May 2009, the first annual review process must be completed by May 2010, the second by May 2011 etc.... The legal reference for this is the Education Act 1996 section 328 (5):

EA1996, s328

(5) A statement under section 324 shall be reviewed by the local education authority—

(a) on the making of an assessment in respect of the child concerned under section 323, and

(b) in any event, within the period of 12 months beginning with the making of the statement or, as the case may be, with the previous review.

How soon do local authorities have to make a decision on whether to amend the statement once they have received the evidence and recommendations from the review meeting

As long as the local authority completes the annual review process (including its decision whether to amend the statement or not) within twelve months of the last review or the statement being issued then there are no further time constraints. On receipt of

the recommendations from the annual review meeting, there is no upper or lower time limit on how long the local authority has to decide whether to amend the statement other than the overall twelve month time limit. This means that if a statement was issued in May 2009, and the local authority receives the evidence and recommendations from the review meeting in February 2010, they will have to reach a decision by May 2010.

Who should a complaint be made to if the local authority does not review the statement within twelve of the last review or the issuing of the statement?

Complaints should be made to the Local Government Ombudsman where local authorities have failed in their statutory duties.

What are the implications of the Children, Schools and Families (CSF) Act on the annual review process?

The CSF Act gives a new parental right of appeal to the First-Tier (SEND) Tribunal against a local authority decision not to amend a statement of SEN after an annual review. This right of appeal exists regardless of the recommendations made by the annual review meeting. It is important to note that parents will not be able to appeal until the local authority makes its decision whether to amend the statement, so it will be important that local authorities are kept to the twelve month time scale as discussed above.

Matthew Dodd, April 2010