



Circular No. 0020/2011

Circular to the Management Authorities of National Schools on the Assessment of Need process under the Disability Act 2005

1. Background

As outlined in Circular 51/2007, the provisions of Part 2 of the Disability Act, 2005 came into operation in relation to persons under 5 years of age on 1 June 2007. Under its provisions, parents may apply for an assessment of need under the Act if they are of the opinion that the child may have a disability in terms of the Act.

Disability under the Act is defined as follows:

“Disability”, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment.

“Substantial restriction” is considered to mean a restriction which:

- (a) is permanent or likely to be permanent, results in a significant difficulty in communication, learning or mobility or in significantly disordered cognitive processes, and*
- (b) gives rise to the need for services to be provided continually to the person whether or not a child or, if the person is a child, to the need for services to be provided early in life to ameliorate the disability.*

2. The Assessment of Need under the Disability Act

Assessment Officers are charged with organising the assessment of need for the HSE. The Assessment Officer must organise an assessment of the child within tight statutory

time frames. The assessment focuses on the child's needs and may not necessarily result in a diagnosis which meets the DES criteria for resource allocation. It is the statutory duty of the Assessment Officer, taking cognisance of available clinical evidence, to make a determination as to whether or not a child meets the definition of disability contained in the Act. It is this decision which determines whether or not the child is entitled to the benefits of the Act's provisions.

3. Education and the Disability Act

Under Section 8 (3) of the Disability Act, the Assessment Officer may request assistance from the NCSE in identifying the educational needs of the child. A process has been agreed for timely contact and response to the HSE by the NCSE to these requests.

The Assessment Officer (HSE) contacts the relevant SENO (NCSE) when an educational need is identified as part of the assessment process. The SENO informs the Assessment Officer of the education services which will be made available to the child. These services will be based on the relevant criteria applying at the time, with regard to provision for the education of pupils with special educational needs, including assessment and intervention and using the approach outlined in the NEPS Guidelines - A Continuum of Support - the General Allocation and resources allocated to schools by the NCSE, on the basis of criteria set out by the DES.

In order to ensure that parents have all the information and support they need, the contact details of the SENO will be made available to the Assessment Officer for parents' use, if required.

4. The School and the Disability Act Process

(i) What to do in terms of intervention prior to advising a parent about Assessment of Needs

Where a child under the age of 5 presents as having learning and or behavioural emotional or social difficulties in school, teachers should follow the approach to assessment and intervention outlined in the NEPS Continuum of Support Guidelines to address those needs in the first instance.

Applications for assessment of need under the Act should be made by the parent or guardian. In cases where a child under the age of 5 years appears to have a disability as set out above, and has not been assessed under the Act, the principal may inform the parents of the assessment of need process. Information leaflets for parents are available from HSE Local Health Offices, in GP clinics and HSE local health centres. Information is also available on the HSE website.

Principals should be aware that it is not appropriate for them to refer a child for assessment of need under the Disability Act. This process may only be initiated by a parent or guardian.

(ii) School Response to pupil need following an Assessment of Needs

Where a child has been assessed as having a high incidence special need as set out in DES Circular 02/05, schools should support the child through the General Allocation Model for resource teaching.

As previously noted, assessment under the Disability Act focuses on a child's needs and does not necessarily result in a diagnosis which may be required to meet the DES criteria for low incidence special educational needs.

In cases where it is evident from the reports supplied by the parent/s from the assessment of need process that the child meets the criteria for additional resources under the DES criteria for low incidence special need, the principal may make an application to the SENO in the normal way. As in all cases, the principal may consult with the SENO as to whether or not the child meets the required criteria.

Schools may use the information from assessment of need report/s provided to them by the parents to plan for differentiation and/or additional teaching support depending on the level of need of the child. The school may consult the NEPS psychologist when planning for a child with complex needs.

(iii) Communication

It has been agreed between the HSE, NCSE and NEPS that the appropriate line of communication for exchange of information under the Act is between the Assessment Officer and the SENO. It is, therefore, not appropriate for school principals to make direct contact with Assessment Officers or other HSE staff in this regard. Any queries regarding the assessment of need or intervention with a particular child should be directed to the local SENO.

This circular can be accessed on the Department's website www.education.ie

If you have any queries with regards to this circular please contact Special Education Section on 090 648 3747.

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