



Disapplication of the National Curriculum (Revised)

Related documents

Foundation Stage, Years 1 and 2: Assessment and reporting arrangements (QCA/05/1636)

Years 3 to 6: Assessment and reporting arrangements (QCA/05/1637)

Years 7 to 9: Assessment and reporting arrangements (QCA/05/1638).

Circular 10/1999 Social Inclusion: Pupil Support - DfES
Code of Practice on the Identification and Assessment of
Special Needs - DfES

Superseded documents

Disapplication of the National Curriculum DfEE 0084/2000
Revised Guidance on Disapplication of the National
Curriculum at Key Stage 4 for Specific Purposes under
Section 363 of the Education Act 1996 DfES/0667/2002
Disapplication of the National Curriculum (Revised)
DfES/0076/2003

Overview

This is revised guidance and explains how to disapply aspects of the National Curriculum to meet pupils' particular needs. It applies to England only. Chapter 4 has been amended to reflect the end of disapplication at KS4; Chapter 6 has been amended to make clear the time-specific element to applications for curriculum development work or experiments.

Enquiries should be addressed to:
Public Enquiry Unit
0870 000 2288

department for

education and skills

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**Head teachers,
curriculum managers,
SENCOs of
all maintained schools
in England – all key
stages**

Status: Guidance on the law

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the KS4 curriculum from
SEPT 2006

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Contents

1	The purpose of disapplication	2
2	Flexibility within the National Curriculum, not requiring disapplication	4
3	Temporary disapplication	5
4	Disapplication at KS4	10
5	Disapplication through a statement of special educational needs	10
6	Disapplication for curriculum development work or experiments	11
7	Sources of further information	14

1 The purpose of disapplication¹

- 1.1 Schools incorporate statutory requirements into a wider curriculum that takes into account the starting points and particular needs of their pupils; the distinctive ethos of their school; and the characteristics of their community. They engage in ongoing curriculum development, aiming for a better match between provision and pupils' needs in order to raise achievement.
- 1.2 The National Curriculum emphasises inclusion, aiming to secure learners' participation and ensure appropriate opportunities for them to achieve. Schools have considerable flexibility within the National Curriculum to develop their curriculum appropriately.
- 1.3 In some cases, the full National Curriculum may not be the most appropriate route to maximising pupils' learning and achievement. Disapplication of the National Curriculum, as described in this guidance, may then be considered.
- 1.4 Disapplication is permitted, for individual pupils:
 - for a temporary period, through regulations under section 93 of the Education Act 2002;
 - through a statement of special educational need, under section 92 of the Education Act 2002;and, for groups of pupils or the school community:
 - for a time limited period, to enable curriculum development or experimentation, under section 90 of the Education Act 2002.

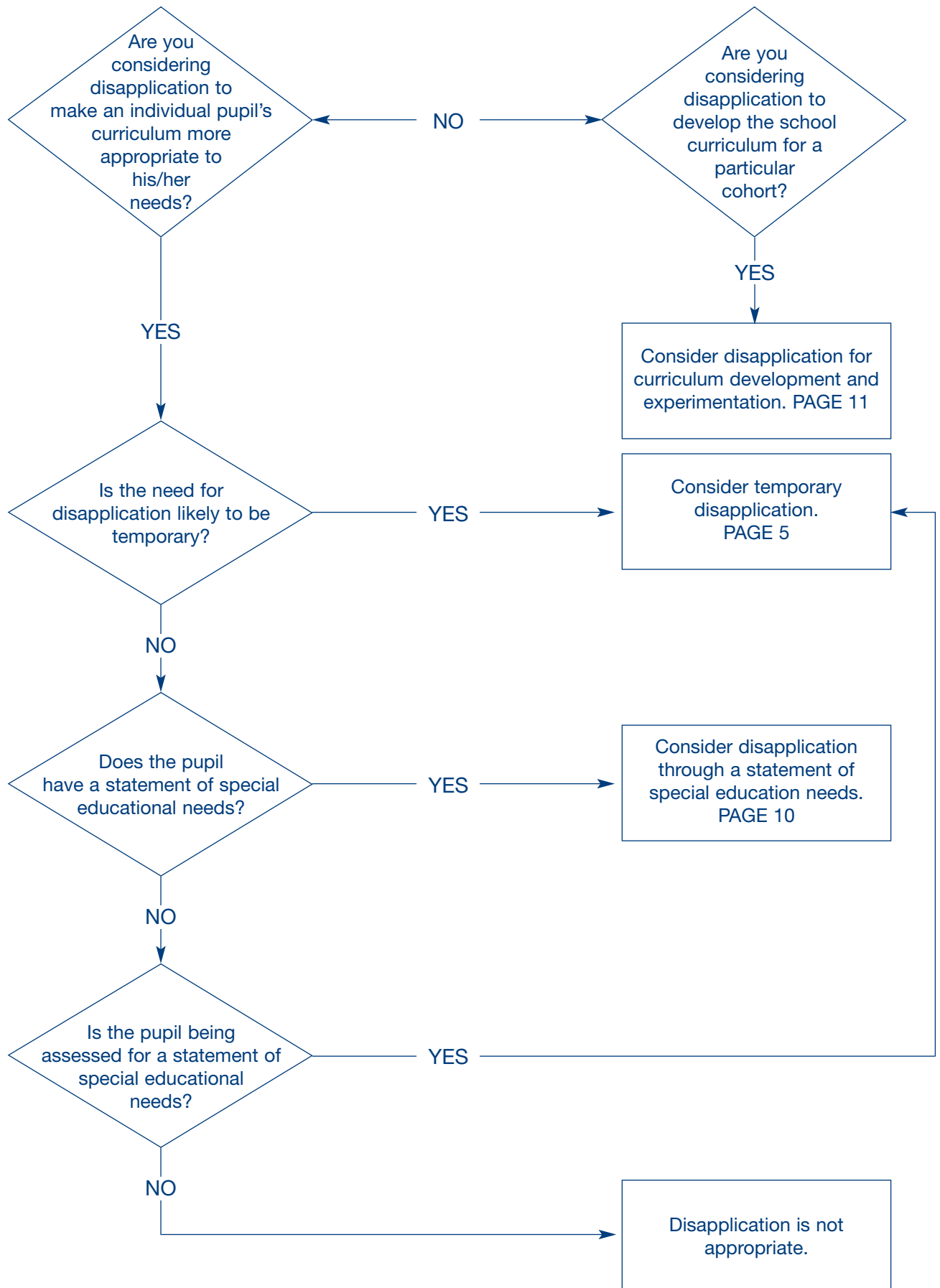
The flow-chart on page 3 will aid decisions about the appropriate route.

- 1.5 Disapplication may be from all or part of the National Curriculum, including all or part of separate programmes of study and all or part of statutory assessment arrangements. Disapplication is permitted to enable more appropriate curriculum provision to be put in place. Schools should, however, retain pupils' access to a broad and balanced curriculum or learning programme, including as much of the National Curriculum as possible.
- 1.6 Only National Curriculum programmes of study and assessment arrangements may be disapplied. The National Curriculum for Key Stages 1 to 3 is currently made up of English, mathematics, science, design and technology, information and communication technology, history, geography, art and design, music and physical education. It also includes modern foreign languages and citizenship at Key Stage 3. At Key Stages 1, 2 and 3 statutory assessment arrangements include end of key stage teacher assessments in all National Curriculum subjects and tests in English and mathematics. Science is only tested at key Stages 2 and 3.² There are no statutory assessment arrangements at Key Stage 4.
- 1.7 Disapplication may not be extended to other statutory requirements: to provide a balanced and broadly based curriculum; to use approved qualifications only; and to teach religious education; sex education; careers education and collective worship.

¹ All relevant sections of the Education Act 2002 permit the **whole** National Curriculum not to apply or for it to apply with **modifications**. This guidance uses the term disapplication in both cases.

² Guidance on assessment and reporting arrangements are updated and sent to schools every year. These can also be accessed electronically at <http://www.qca.org.uk/eara/>

Which route to disapplication?



2 Flexibility within the National Curriculum, not requiring disapplication

2.1 Schools have considerable flexibility in how they develop their curriculum from the statutory requirements, without any need for disapplication. For example:

- in allocating time to each curriculum area, schools may provide emphases within the curriculum appropriate to their aims. Although National Curriculum programmes of study for each key stage have been developed against notional times, there are no centrally prescribed time allocations for particular subjects. The amount of time spent on each subject is for the school to decide;
- whilst the National Curriculum is specified in terms of separate subjects, schools are not required to teach the subjects discretely. The way teaching is timetabled and how lessons are described and organised is not prescribed and it is for each school to decide the most effective organising structures to use;
- the programmes of study for National Curriculum subjects set out what the majority of pupils should be taught during each key stage. Schools decide how to organise time within the key stage. It is not necessary, for example, for pupils to study all National Curriculum subjects each week, term or year and a school may decide to concentrate on particular subjects during particular terms or particular years. Pupils must, however, engage in physical activity throughout each key stage;
- the programme of study for each National Curriculum subject prescribes what is to be taught, not how it is to be taught. Revised programmes of study in all subjects are less prescriptive and give greater flexibility for teachers to decide on the most appropriate teaching and learning approaches and the aspects of a subject pupils will study in depth;
- at each key stage, the full programme of study will be appropriate for the majority of pupils. A few pupils' learning needs, however, will be better matched by concentrating on particular aspects of the programme of study or by the programme of study from earlier or later key stages. The Inclusion Statement in the revised National Curriculum³ outlines how teachers can adapt programmes of study to provide all pupils with relevant and appropriately challenging work at each key stage;
- when a key stage programme of study has been taught, pupils can progress beyond its requirements or take up other subjects. For example, a pupil who achieves a GCSE during Key Stage 3 or in year 10 need not continue to study the subject.⁴ Pupils must, however, engage in physical activity throughout each key stage;
- there is no requirement to assess National Curriculum subjects at Key Stage 4, although, for most pupils, schools will want the learning from the appropriate programme of study to be assessed through national qualifications. Within the requirements of the programmes of study, schools can decide on the most appropriate approved qualifications for their pupils;
- at Key Stage 4, schools have greater flexibility in determining where learning takes place. For example, pupils are able to study any aspect of the Key Stage 4 National Curriculum in further education colleges and to undertake work experience from the start of year 10.

³ Available in *The National Curriculum handbook for secondary teachers in England* (QCA/99/458)

⁴ Further guidance is provided in DfEE letter of 1 October 1996: *National curriculum: completing Key Stage 4 programmes of study early*

2.2 National Curriculum tests have been designed to enable as many pupils as possible to have access to them and a range of special arrangements are permitted to meet individual pupils' assessment needs. Further information is available in:

- Foundation Stage, Years 1 and 2: Assessment and reporting arrangements (QCCA/05/1636);
- Years 3 to 6: Assessment and reporting arrangements (QCA/05/1637); and
- Years 7 to 9: Assessment and reporting arrangements (QCA/05/1638).

3 Temporary disapplication

3.1 There may be times when circumstances during an individual pupil's schooling mean that studying the full National Curriculum is not appropriate and does not benefit the pupil. When this occurs, head teachers need to consider what is in the best interests of the pupil. If they believe that the pupil would benefit more from studying a reduced curriculum for a short period of time then they need to consider whether it may be appropriate to use temporary disapplication regulations.

3.2 Regulations under section 93 of the Education Act 2002⁵ allow head teachers to disapply all or part of the National Curriculum, including the statutory assessment arrangements, in order to meet an individual pupil's learning needs at a particular time.

3.3 Head teachers are permitted, through a written direction, to make two kinds of temporary disapplication:

- A general direction – where the head teacher considers that the full National Curriculum is not appropriate for a pupil, but that a statement of special educational needs is not necessary; and
- A special direction – where the head teacher considers that a pupil should be assessed with a view to making or amending a statement of special educational needs and temporary disapplication is necessary while the assessment takes place.

3.4 Both directions may last up to 6 months. It is possible to give further general directions up to a total of 18 months. Further special directions may be given in the specific circumstances detailed in paragraph 3.16.

3.5 Head teachers should only consider giving a direction if a pupil's present circumstances or conduct mean that they cannot fully participate in or benefit from the National Curriculum.

3.6 A head teacher should consider the advantages and disadvantages of disapplication, especially the implications of the learning which will be lost.

3.7 General or special directions can apply to pupils who are also subject to other kinds of disapplication. However, head teachers should make sure that the pupil's needs cannot be met within their existing disapplication provision.

⁵ Refers to the 2000 Regulations (SI 2000/2121)

General direction

3.8 There are a number of circumstances when a general direction may be used. There is no list of situations prescribed in regulations but the following are examples of where this may be appropriate:

- a pupil arriving from another country who needs time to develop English language skills;
- a pupil joining or re-joining the school having been in hospital, educated at home or excluded from school, who needs time to adjust;
- a pupil who has failed to attend school for a significant period who requires a different context for learning in order to re-engage him/her;
- a pupil with behavioural difficulties that call for alternative curriculum provision whilst building behaviour management skills;
- a pupil who is at considerable risk of becoming disengaged from learning;
- a pupil with temporary severe emotional problems, perhaps as a result of a family crisis;
- a pupil in the last year of a key stage who needs to concentrate on particular aspects of the curriculum in order to secure a successful transition to the next key stage.

3.9 A general direction is not required if:

- pupils are absent because of illness, holidays or other reasons beyond the head teacher's control;
- additional support is being offered to enable a pupil to concentrate, perhaps for several weeks, on particular areas of weakness but the full programme of study will still be covered over the course of the key stage.

3.10 A general direction is not appropriate if:

- a parent requests disapplication because their child does not enjoy the subject or is not predicted a high grade in examinations;
- a parent's objections are on religious grounds. These are not grounds for disapplication in law but such requests need to be treated with sensitivity. Head teachers may wish to point out that, whilst respecting the parent's convictions they are, in effect, asking them to break the law.

Special direction

3.11 Head teachers should only give special directions when there is a clear case for assessment for special educational needs (SEN). However, it must be taken into consideration that it will be more difficult to assess pupils who have been exempted from aspects of the National Curriculum.

3.12 Head teachers must consult the local authority responsible for the pupil before giving a special direction.

The disapplication direction

3.13 The head teacher's direction must include:

- whether it is a general or special direction;
- why disapplication is necessary;
- the aspects of the National Curriculum which are to be disapplied;
- the alternative curriculum provision being made;
- the start and finish date of the direction;
- for a general direction – proposals for restoring the full National Curriculum once the direction expires;
- for a special direction – reasons for believing assessment for a statement or an amendment to a statement is necessary, the steps taken to monitor the pupil's needs and action taken to address them;
- details of the parents' right of appeal.

3.14 A new direction should usually take effect one month after it is given. If it is to start earlier, then the reasons must be stated in the direction. Any subsequent directions can take effect immediately.

3.15 Provision can be made in a general direction for a further period of disapplication if it is unlikely that a pupil will be able to return to the full National Curriculum after the initial 6 months. However, if at any point during the initial 6 months it is felt that the pupil will not require a further period of disapplication, this provision should be revoked.

3.16 A direction must end within 6 months either on a specified date or:

- for a general direction – when an expected event occurs which makes the disapplication no longer necessary (for example, the pupil's return from a Pupil Referral Unit);
- for a special direction – when the Local Authority has made or amended a statement of special educational needs, or within a month of notification that it has been decided not to make or amend a statement.

Recording and notifying

3.17 The head teacher must keep a copy of the direction on the pupil's records and the following people must be sent copies of the direction within 3 working days:

- the chair of the governing body;
- the Local Authority;
- at least one of the pupil's parents at their registered address. If there is a reason to believe that the parent may have difficulty in understanding the direction, appropriate assistance must be offered (for example, a translation of the document or discussing documents with the parents).

Parents' rights

- 3.18 Head teachers should inform parents if they decide to disapply aspects of the National Curriculum, or if they change or revoke a direction, and should keep them informed throughout the process.
- 3.19 Parents have the right to:
- ask the head teacher to give, vary or revoke a direction;
 - appeal to the governing body against the head teacher's decision;
 - complain formally if they are dissatisfied with the governing body's decision on appeal.
- 3.20 If a parent asks for a direction to be given, varied or revoked, against the head teacher's judgement, the head teacher should discuss the request with them to resolve any differences without the need for formal procedures. If there are differences which cannot be resolved, parents can make a formal request, in writing or orally, to the head teacher giving their reasons for the request.
- 3.21 A head teacher is not required to consider more than one request from parents for a variation or revocation of an existing direction during the course of that direction.
- 3.22 A head teacher who decides not to meet a request must write to the parents within 2 weeks giving the reasons for rejecting the request and details of their right of appeal. Copies must be sent to the governing body and the Local Authority.
- 3.23 If a head teacher does not respond to a request within 2 weeks, the parents have the right to appeal to the governing body.
- 3.24 Governing bodies should hear appeals promptly. They should allow representations from parents, accompanied by a friend or adviser if the parents wish, and from the head teacher and other specialist staff if necessary.
- 3.25 A governing body can either confirm the head teacher's decision or direct the head teacher to give, vary, or revoke a direction. It must notify the parents and head teacher in writing of its decision. The head teacher must comply with the governing body's decision.

Varying a direction

- 3.26 The pupil's progress under the temporary disapplication should be monitored. If a general or special direction requires amendment, the head teacher should discuss the pupil's changing requirements with the pupil's parents and any specialist staff before doing so.
- 3.27 Either a general or special direction can be varied in terms of:
- the National Curriculum requirements disapplied;
 - the provision for the pupil's education;
 - the proposals for restoring the full National Curriculum for the pupil when the direction ends.

3.28 If a direction is changed, a notice of variation must be written, giving reasons for each variation. This should usually take effect a month after the notice has been given but if a more urgent revision is required, the notice of variation must state the reasons for this.

3.29 The notice of variation must be sent to the recipients of the original direction.

Revoking a direction

3.30 Head teachers can revoke a general or special direction if disapplication is no longer appropriate. Head teachers should discuss their plans with the pupil's parents, teachers and specialist staff.

3.31 If a direction is revoked, a notice of revocation must be written specifying the date when the direction will end and the reasons for it. It must also state arrangements for restoring the National Curriculum for the pupil, or the curricular arrangements proposed under other disapplication provision, unless this is unchanged from the original direction.

3.32 The notice of revocation must be sent to the recipients of the original direction.

What happens when a direction expires

3.33 Parents should be informed when a direction expires and, if any further disapplication procedures are to be followed, the head teacher should discuss this with them.

3.34 General direction - the pupil must return to the full National Curriculum requirements for the relevant key stage, unless other disapplication provisions apply or the head teacher gives a further direction.

3.35 Special direction – the direction automatically expires as soon as a statement of special educational needs is made or amended and will then be superseded by the provision specified in the statement. If the Local Authority decides against assessment or amendment, it should inform the head teacher as soon as possible. The full National Curriculum should then be restored within one month, unless the head teacher can issue another direction or make appropriate arrangements through other disapplication procedures.

Subsequent general directions

3.36 Most pupils under a general direction will be able to return to the full National Curriculum within six months. If a longer period of disapplication is needed, a further direction can follow immediately. The head teacher must make a conscious decision at the end of a period of disapplication as to whether to issue another direction or not; it must not happen automatically.

3.37 Second and third directions may be issued and can run for up to six months, as with an initial direction. A fourth direction is not permitted.

3.38 The regulations do not forbid or limit subsequent general directions, if they are not consecutive or are given for different reasons. However, head teachers should consider carefully the impact of any further disapplications on a pupil's education and could be challenged on the grounds that, in effect, they were allowing a long-term disapplication.

3.39 Head teachers should discuss the pupil's needs with parents, teachers and specialist staff. The parents' rights are the same as for the first direction.

Subsequent special directions

- 3.40 When a special direction expires, one further consecutive special direction can be made if:
- the circumstances which gave rise to the original direction still apply, and
 - the Local Authority has not made or amended a statement of SEN, and has not given notice to the head teacher that this has been decided against, or
 - the Local Authority has decided not to make a statement and an appeal against it has been lodged with the SEN tribunal.
- 3.41 A head teacher can give any number of further consecutive special directions if:
- the circumstances which gave rise to the original direction still apply, and
 - the Local Authority has made a statement, and an appeal against it has been lodged with the SEN tribunal.
- 3.42 Any further consecutive directions expire within one month of the statement being made or amended, or the SEN tribunal's decision, and in any event at six months.
- 3.43 Head teachers should discuss the pupil's needs with parents, teachers and specialist staff. The parents' rights are the same as for the first direction.

4 Disapplication at KS4

- 4.1 In September 2004, key stage 4 disapplication regulations were amended so that only science could be disapplied to allow pupils to undertake a course of extended work-related learning. Up to this point, it had also been possible to disapply design and technology and/or modern foreign languages for any purpose - providing it would educationally benefit the pupil. However, the introduction of the entitlement areas for design and technology and modern foreign languages means there is no longer a need for disapplication arrangements relating to these subjects. Therefore, the parts of the disapplication regulations relating to design and technology and modern foreign languages ceased to have effect from September 2004.
- 4.2 In September 2006, a new programme of study for science will be introduced and there will no longer be a need to retain those parts of the disapplication arrangements relating to science. As a result, all key stage 4 disapplication regulations will be withdrawn for those young people entering Year 10 in September 2006.

5 Disapplication through a statement of special educational needs

- 5.1 A statement of special educational needs may disapply National Curriculum subjects or assessment arrangements for individual students. Before considering this option, schools should explore the flexibility available within the full National Curriculum, in particular the Inclusion Statement, to ensure that the pupil has appropriate access to learning in National Curriculum subjects. For example, the Inclusion Statement allows pupils to be taught knowledge, skills and understanding from earlier key stages if this will enable them to make progress and show what they can achieve. This does not require disapplication.

- 5.2 In a few cases, however, the assessment of a pupil's special educational needs, or the annual review of a pupil's existing statement, may identify a longer-term need for disapplication. The disapplication should be agreed as part of the curriculum provision determined for the pupil through the assessment or review and written into the statement of special educational need. As with other disapplications, this could be for all or part of a National Curriculum programme of study, or all or part of National Curriculum assessment arrangements. The statement must include details of:
- the aspects of the National Curriculum that will be disapplied;
 - the provision that will replace the disapplied aspects;
 - how a balanced and broadly-based curriculum will be maintained for the pupil.
- 5.3 The disapplication must be reviewed annually as part of the review of the statement of special educational needs. If a statement ceases, the disapplication included in the statement will also cease.
- 5.4 If it is likely that disapplication will be necessary for a pupil being assessed for a statement of special educational need, temporary exceptions regulations permit disapplication in the short-term.
- 5.5 Further guidance on assessing pupils' special educational needs and writing a statement of special educational need is given in Special Educational Needs – Code of Practice (DfES).

6 Disapplication for curriculum development work or experiments
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- 6.1 Disapplication under section 90 of the Education Act 2002 allows a school or an LA to submit to the Secretary of State an application to disapply all or part of the National Curriculum for a specified time period for the purpose of innovative curriculum development. This allows schools to develop their curricula in ways which cannot be facilitated by the general flexibility available within the National Curriculum.
- 6.2 Before making an application, schools should consider whether the existing flexibility within the National Curriculum (pages 4 and 5), or the other opportunities for disapplication described in this guidance, enable the proposed curriculum developments to be made.
- 6.3 Disapplication under section 90 can be sought for:
- a whole school;
 - a key stage;
 - a year group; or
 - a group of pupils.

Who can make the application

6.4 The application should be submitted to the Secretary of State by:

- the chair of governors, or the head teacher on behalf of the governing body; or
- the Chief Education Officer (or another senior officer) of the Local Authority; or
- the Qualifications and Curriculum Authority.

6.5 Agreement on the application:

- in the case of community, voluntary controlled or community special schools or maintained nursery schools, the governing bodies of all schools included and their Local Authorities must agree the application,
- in the case of foundation, voluntary aided or foundation special schools, an application can be made by the Qualifications and Curriculum Authority or by the Qualifications and Curriculum Authority with the agreement of the governing body.

What information should be included in the application

6.6 The application should include:

- the name(s) and address(es) of the school(s) concerned;
- the name, position, address, telephone number and signature of the person making the application;
- the name position, address, telephone number and signature of the person(s) agreeing to the application (eg Local Authority, governing body etc...);
- details of the curriculum to be introduced, including:
 - the National Curriculum requirements to be disapplied;
 - the proposed alternative curriculum provision;
 - the pupils to whom the proposed curriculum will apply;
 - the start and finish date for the proposed curriculum;
 - the objectives of the proposed curriculum, including details of the educational outcomes intended and how it will meet the educational and progression needs of the pupils;
 - how the proposed curriculum will provide a balanced and broadly-based curriculum which promotes pupils' development and prepares them for adult life;
 - the arrangements for assessing achievement and progress across the proposed curriculum;
 - the arrangements for monitoring and evaluating the proposed curriculum and for adjusting it if objectives seem unlikely to be achieved;

- the preparation pupils will receive for re-entry into the National Curriculum at the end of the period, or for transition to post-16 studies, training or work;
- where a single application covers a number of schools, any variations in what is being disappplied and what is being proposed in respect of each school.

Submitting an application

- 6.7 The application should be made in writing and sent to the Secretary of State and should be copied to the DfES Curriculum Policy Team, (DfES, Curriculum Policy Team, CSCU, Sanctuary Buildings, Great Smith Street, London SW1P 3BT).
- 6.8 Applications will be considered by the Secretary of State, who will normally expect to make a decision within 8 weeks of receipt of a complete application. This should be taken into account when looking at the timetabling of implementation.
- 6.9 An application can be made at any point during the year, but should usually be timed to allow the school to prepare for introducing change at the start of the school year.
- 6.10 If the Secretary of State approves the application, he will issue a direction for the disapplication. The direction may stipulate conditions for disapplication.
- 6.11 If the Secretary of State does not approve the application, he may identify amendments that he would find appropriate. Applicants failing to gain approval for their applications can reapply with a modified proposal at any time.

Assessment arrangements

- 6.12 Unless the disapplication direction includes statutory assessment arrangements, key stage 2 and 3 statutory tests and teacher assessments in all subjects except those disappplied will continue.

Ofsted inspections

- 6.13 Ofsted inspectors will take into account the Secretary of State's direction for disapplication when assessing whether a school meets National Curriculum requirements. Where programmes of study have been modified, Ofsted inspectors will focus on the quality of teaching and learning rather than the extent to which requirements have been met.
- 6.14 School performance will continue to be included in the annual national performance tables.

When a direction expires

- 6.15 Disapplication under section 90 will continue to apply until the specified time period comes to an end.
- 6.16 At the end of the specified period, the school must restore the full National Curriculum. Transition arrangements may be needed to phase in the full National Curriculum and schools should consider whether this will be necessary when they first request a general direction. Where transition arrangements are likely to be necessary, schools should set out how they will manage this in their initial application.

- 6.17 There is no statutory time period for disapplications relating to curriculum development or experimentation. However, these cannot be open-ended and a specified time period needs to be agreed between the school and the Department.
- 6.18 If, at the end of the specified time, a school wishes to run a second period of disapplication, a further application must be made to the Secretary of State. This should state the school's reasons for wishing to continue the development work and allow a period of at least 8 weeks for a decision to be reached.

7 Further sources of relevant information

Title	Reference no.	Available from
Statutory assessment arrangements – Key Stage 1-3		
Assessment and reporting arrangements, Key Stages 1, 2, and 3	Updated annually – visit the QCA website for latest version	www.qca.org.uk/eara/
Temporary disapplication		
The Education (National Curriculum) (Temporary Exceptions for individual pupils) (England) Regulations 2000	June 2000	DfES
Social Inclusion: Pupil Support	10/99	DfES
Disapplication through a statement of special educational needs		
Special Educational Needs – Code of Practice	ISBN: 1 84185 5294	DfES
QCA Publication Line: 01787 884444		
DfES Publication Line: 0845 602260		
QCA Website: www.qca.org.uk		
DfES website: www.dfes.gov.uk		
Health and Safety Executive (HSE) Publications Line: 01787 881165		

Notes

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