

The Children and Families Act

The Children and Families Act was given Royal Assent on 13th March 2014. (249 pages) It can be viewed at http://www.legislation.gov.uk/ukpga/2014/6/pdfs/ukpga_20140006_en.pdf

Information on the Act and some of the clauses within it can be viewed via the DfE website at <http://www.education.gov.uk/a00221161/children-families-bill> . The briefing that accompanies it states; "We will issue the final SEN code of practice shortly ahead of reforms coming into force in September."

The Act aims to provide children, young people and their parents greater control and choice in decision making regarding SEN provision by:

- replacing statements and learning difficulty assessments with a **new birth- to-25 Education, Health and Care Plan**, extending rights and protections to young people in further education and training and offering families **personal budgets** so that they have more control over the support they need;
- improving **cooperation between all the services that support children and their families** and particularly requiring local authorities and health authorities to work together;
- requiring local authorities to **involve children, young people and parents** in reviewing and developing provision for those with special educational needs and to publish a **'local offer' of support**.

The new legislation will in the main come into force on 1st September 2014 with some aspects becoming statutes before this date.

The Act includes the following:

Part 1 Adoption and contact

Part 2 Family justice

Part 3 Children and young people in England with Special educational needs or disabilities

Part 4 Childcare etc

Part 5 Welfare of children

Part 6 The Children's Commissioner

Part 7 Statutory right to leave and pay

Part 8 Time off work: antenatal care etc

Part 9 Right to request flexible working

Part 10 General provisions.

Part 3 Children and young people in England with special educational needs or disabilities (P19-62)

Contents include sections:

19 Local authority functions: supporting and involving children and young people

20 Definition of SEN (as before)

21 Definition of SEN, health care and social care provision

22 Duty of LA to identify children and young people (CYP) with SEN and/or disabilities (SEND)

23 Duty of health bodies to bring children with SEND below school age to LAs attention

24 When a local authority is responsible from a child or young person

- 25 Promoting integration of education, health and social care
- 26 Joint commissioning arrangements for CYP with SEND
- 27 Duty to keep education and care provision under review
- 28 Co-operating generally: local authority duty to cooperate with local partners e.g. Schools, academies, clinical commissioning groups etc
- 29 Co-operating generally: governing body functions
- 30 LA duty to produce and publish its Local Offer (*see clause 30 below*)
- 31 Co-operating in specific cases: cooperating with other LAs, health services etc
- 32 LA duty to provide advice and information to CYP and parents relating to SEND of CYP concerned
- 33 Preparing Education, Health, Care (EHC) plans
- 34 Where CYP with SEN but no EHC plan should be placed
- 35 Admission of CYP SEN to maintained nurseries and schools
- 36 Process that LAs should adopt when responding to requests for assessment of education, health and care needs by parents, schools and post 16 settings
- 37 EHC plans. Preparation of the EHC plan and its contents for consultation (*see clauses 36, 37, 44 and 45 below*)
- 38 Preparation of EHC plans: draft plan for consultation
- 39 Finalising EHC plans: request for particular school or other institution
- 40 Finalising EHC plans: no request for particular school or other institution
- 41 Independent special schools and special post-16 institutions: approval
- 42 Duty to secure special educational provision and health care provision in accordance with EHC Plan
- 43 Schools and other institutions named in EHC plan: duty to admit
- 44 Reviews and re-assessments- timings and requirements
- 45 Ceasing to maintain an EHC plan
- 46 Maintaining an EHC plan after young person's 25th birthday
- 47 Transfer of EHC plans
- 48 Release of child or young person for whom EHC plan previously maintained
- 49 Personal budgets and direct payments
- 50 Continuation of services under section 17 of the Children Act 1989
- 51 Appeals – the right of parents and young people to appeal to the First Tier Tribunal
- 52 Right to mediation
- 53 Mediation: health care issues
- 54 Mediation: educational and social care issues etc
- 55 Mediation
- 56 Mediation: supplementary
- 57 Resolution of disagreements
- 58 Appeals and claims by children: pilot schemes
- 59 Appeals and claims by children: follow-up provision
- 60 Equality Act 2010: claims against schools by disabled young people
- 61 Special educational provision otherwise than in schools, post-16 institutions etc
- 62 Special educational provision outside England and Wales
- 63 Fees for special educational provision at non-maintained schools and post-16 institutions
- 64 Supply of goods and services
- 65 Access to schools, post-16 institutions and other institutions
- 66 Using best endeavours to secure special educational provision
- 67 SEN co-ordinators (*see clause 62 below*)**

- 68 Informing parents and young people
- 69 SEN information report (see clause 64 below)**
- 70 Application of Part to detained persons
- 71 Assessment of post-detention education, health and care needs of detained persons
- 72 Securing EHC plans for certain detained persons
- 73 EHC plans for certain detained persons: appeals and mediation
- Duty to keep EHC plans for detained persons
- 75 Supply of goods and services: detained persons
- 76 Provision and publication of special needs information
- 77 Code of practice
- 78 Making and approval of code
- 79 Review of resolution of disagreements
- 80 Parents and young people lacking capacity
- 81 Disapplication of Chapter 1 of Part 4 of EA 1996 in relation to children in England
- 82 Consequential amendments
- 83 Interpretation of Part 3

Clauses associated with SEN include:

Clause 30

The Special Educational Needs (Local Offer) (England) Regulations 2014 come into force 1st Sept 2014

This clause describes

- The information local authorities need to include in their local offer,
- Who is to be consulted when preparing and reviewing the Local Offer,
- Identification of the duty for LAs to ensure the involvement of children, young people and their parents in this process and place their comments on the content, accessibility and their involvement with the Local Offer on their website annually.

Details of specific inclusions such as:

- How an Education, Health and Care (EHC) needs assessment can be requested
- The identification of the special educational provision available in the local area and also that available outside of the area.
- Information such as how health care provision is to be accessed e.g. speech and language therapies, mental health provision, social care
- Details on transport arrangements
- Advice and information to stakeholders in relation to SEN
- Details of the complaint and disagreement resolution arrangements as well as notification of parents' right to appeal.

<http://preview.tinyurl.com/qjzowjz>

Clauses 36, 37, 44 and 45

The Education (Special Educational Needs) (Assessment and Plan) Regulations 2014 come into force on 1st Feb 2014.

This clause provides details on:

- How an Education, Health and Care needs assessment can be requested,
- The process for deciding if an EHC needs assessment is necessary,
- Who should be consulted
- The time scales (and exceptions) relating to completion of an EHC needs assessment

- The form the EHC plan should take
- Arrangements relating to transfer of a EHC plan
- Review arrangement
- Details when it would be appropriate to cease to maintain a EHC plan

<http://preview.tinyurl.com/nhwh45g>

Clause 62

The Education (Special Educational Needs Co-ordinator) (England) Regulations 2014

come into force on 1st Sept 2014.

This clause describes:

- The prescribed qualifications and experience of the SENCo (as previously)
- The key responsibilities of a SENCo as determined by the “appropriate authority” of the school but may include:
 - a) in relation to each of the registered pupils who the SENCO considers may have special educational needs, informing a parent of the pupil that this may be the case as soon as is reasonably practicable;
 - b) in relation to each of the registered pupils who have special educational needs
 - i. identifying the pupils special educational needs,
 - ii. co-ordinating the making of special educational provision for the pupil which meets those needs,
 - iii. monitoring the effectiveness of any special educational provision made for the pupil,
 - iv. securing relevant services for the pupil where necessary,
 - v. ensuring that records of the pupil’s special educational needs and the special educational provision made to meet those needs are maintained and kept up to date,
 - vi. liaising with and providing information to a parent of the pupil on a regular basis about that pupil’s special educational needs and the special educational provision being made for those needs,
 - vii. ensuring that, where the pupil transfers to another school or educational institution, all relevant information about the pupil’s special educational needs and the special educational provision made to meet those needs is conveyed to the appropriate authority or (as the case may be) the proprietor of that school or institution, and
 - viii. promoting the pupil’s inclusion in the school community and access to the school’s curriculum, facilities and extra-curricular activities;
 - c) selecting, supervising and training learning support assistants who work with pupils with special educational needs;
 - d) advising teachers at the school about differentiated teaching methods appropriate for individual pupils with special educational needs;
 - e) contributing to in-service training for teachers at the school to assist them to carry out the tasks referred to in paragraph (b); and
 - f) preparing and reviewing the information required to be published by the appropriate authority pursuant to [the Education (Special Educational Needs)(Information) (England) Regulations 2014], the objectives of the appropriate authority in making provision for special educational needs, and the special educational needs policy referred to in [paragraph 1 of Schedule 1 to those Regulations].

<http://preview.tinyurl.com/pm5848k>

Clause 64

The Special Educational Needs (Information) Regulations come into force on 1st Sept 2014.

This clause provides details on the prescribed information that must be included in the school SEN information report. Mainstream schools must include information on schedule 1 and special schools information from schedule 2. This must then be published on the school website.

Schedule 1 Regulation 3(a)

1. Information about the school's policies for the identification, assessment and provision for pupils with special educational needs, whether or not pupils have EHC Plans, including how the school evaluates the effectiveness of its provision for such pupils.
2. The school's arrangements for assessing the progress of pupils with special educational needs
3. The name and contact details of the SEN co-ordinator.
4. Information about the expertise and training of staff in relation to children and young people with special educational needs and about how specialist expertise will be secured.
5. Information about how equipment and facilities to support children and young people with special educational needs will be secured.
6. The role played by the parents of pupils with special educational needs.
7. Any arrangements made by the governing body or the proprietor relating to the treatment of complaints from parents of pupils with special educational needs concerning the provision made at the school.
8. The contact details of support services for the parents of pupils with special educational needs, including those for arrangements made in accordance with clause 32.
9. Information on where the local authority's local offer is published.

Schedule 2 Regulation 3(b)

1. The kinds of special educational needs for which provision is made at the school.
2. Information about the school's policy for making provision for pupils with special educational needs, including how the school evaluates the effectiveness of its provision for such pupils.
3. The school's arrangements for assessing the progress of pupils with special educational needs.
4. The role played by the parents of pupils with special educational needs.
5. Any arrangements made by the governing body relating to the treatment of complaints from parents of pupils with special educational needs concerning the provision made at the school.
6. How the governing body involves other bodies, including health and social services bodies, local authority support services and voluntary organisations, in meeting the needs of pupils and in supporting the families of such pupils.
7. The contact details of support services for the parents of pupils with special educational needs, including those arrangements made in accordance with clause 32.
8. Information on where the local authority's local offer is published.

<http://preview.tinyurl.com/q69mzrg>

www.snip-newsletter.co.uk