

# CHILDREN, SCHOOLS AND FAMILIES ACT 2010

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## EXPLANATORY NOTES

### OVERALL STRUCTURE OF THE ACT

9. The Act consists of 3 Parts and 4 Schedules. The Act is arranged as follows:

#### **Part 1: Children and Schools**

10. This Part provides for a number of measures relating to children and schools.
11. It requires school inspections by Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector") to take into account the needs of pupils who have a disability or special educational needs (SEN). It provides for an additional right for parents of children with SEN to appeal to the Tribunal when a local authority decides not to alter a child's statement following a review under section 328(5) (b) of the Education Act 1996 ("the EA 1996").
12. It makes changes to existing legislation on exceptional provision for those children who are not being educated in a school, or at home.
13. The Part makes changes to the powers of governing bodies of maintained schools in England to allow them to use their delegated budget to spend money on wider community purposes, and to allow designated governing bodies to be involved in the establishment of new maintained schools and Academies.
14. The Part confers power on Local Safeguarding Children Boards ("LSCBs") in England and Wales to require the supply of information for the purpose of their functions. It makes provision for the Chief Inspector to review the operation of LSCBs in England.

#### **Part 2: Family Proceedings**

15. The provisions in this Part will enable wider reporting of family proceedings, within a scheme which is consistent for all levels of court rather than differing according to the court hearing the proceedings as at present.
16. The rules of court governing most family proceedings were amended in April 2009 to allow for the attendance of accredited media representatives, without allowing for attendance by the public more generally. The existing statutory reporting restrictions remained unchanged, however, with the effect that the media are able to report only limited information about the proceedings they attend and are unable to report the substance of those proceedings without the express permission of the court.
17. These sections introduce new arrangements for the publication of information from family proceedings other than those governed by the Judicial Proceedings (Regulation of Reports) Act 1926 (which deals with reporting of divorce and related proceedings). The new arrangements provide for a general restriction on publication by any person of information relating to the proceedings covered, subject to three major exceptions for types of authorised publication: authorised publication of a court order or judgment, "authorised news publication" and authorisation by way of provision made in rules of court. Of the three exceptions, publication of court orders and judgments will be

possible in much the same way as at present, and it is anticipated that the rules of court will continue to permit similar sorts of disclosure of information as at present; but the “authorised news publication” exception is new and will allow for wider reporting of family proceedings than at present. In addition to these three exceptions, the court will also retain a general discretion to permit the publication of information relating to family proceedings.

18. The exception for authorised news publication of proceedings is for reporting of information acquired by an accredited media representative who has attended the proceedings in question. The news reporting scheme turns on automatic prohibition on reporting of certain sorts of information which is particularly sensitive, with other information being reportable unless the court specifically imposes restrictions. Thus—
  - a) publication of any information likely to lead to the identification of children, parties or witnesses (save professional witnesses) in the proceedings (“identification information”) or of other sorts of particularly sensitive information (“sensitive personal information”, “restricted adoption information” and “restricted parental order information”) is prohibited, but with the court having power to relax the prohibition and allow publication;
  - b) publication of all other information is permitted, but with the court having power to prohibit or restrict publication.

### **Part 3: Miscellaneous and Final Provisions**

19. This Part provides for amendments to the pupil and parent complaints system in Chapter 2 of Part 10 of the Apprenticeships, Skills, Children and Learning Act 2009 (“the ASCLA 2009”) and makes an amendment to the fees regime for inspection of independent schools under the Education and Skills Act 2008. It also includes standard provisions on extent and commencement.

### **Schedules**

20. [Schedule 1](#) contains amendments to Part 2 of the Act. The amendments will alter the circumstances in which “sensitive personal information” relating to certain family proceedings may be published. Sections 19 and 20 set out conditions which must be met before an order bringing Schedule 1 into force may be made.
21. [Schedule 2](#) contains a list of information which is to be regarded as “sensitive personal information” for the purposes of Part 2. [Schedule 3](#) contains minor and consequential amendments relating to the substantive provisions in all Parts of the Act. [Schedule 4](#) contains a list of provisions repealed by the Act.