

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

BACKGROUND AND SUMMARY

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

15. **Part 3** of the Act contains provisions following the Green Paper *Support and Aspiration: A new approach to special educational needs and disability* published by the Department for Education on 18 March 2011 and the follow up *Progress and Next Steps* published 15 May 2012.
16. The provisions are a major reform of the present statutory framework for identifying children and young people with special educational needs (SEN), assessing their needs and making provision for them. They require local authorities to keep local provision for children and young people with SEN and disabilities under review, to co-operate with their partners to plan and commission provision for those children and young people and publish clear information on services they expect to be available. The provisions set out the statutory framework for identifying, and assessing the needs of, children and young people with SEN who require support beyond that which is normally available. Statements made under section 324 of the Education Act 1996 and Learning Difficulty Assessments made under section 139A of the Learning and Skills Act 2000 are replaced by new 0-25 Education, Health and Care plans (EHC plans) for both children and young people. The provisions place a new requirement on health commissioners to deliver the health care services specified in plans.
17. The provisions extend the rights that parents of children with statements of SEN currently have, to express a preference for the school they wish their child to attend, to young people in education and training (including further education). In addition, they widen the institutions for which they can express a preference to include Academy schools, further education colleges and sixth form colleges, non-maintained special schools and independent special schools and independent specialist colleges approved for this purpose by the Secretary of State.
18. The provisions are also intended to give parents and young people greater control over the way their support is provided through involvement with local authorities in reviewing services and through the option of personal budgets in certain circumstances. They introduce a requirement to consider mediation before appeals are made to the First-tier Tribunal. This is to help resolve disagreements without the need for Tribunal appeals wherever possible. The provisions also extend the right to appeal to young people in education and training (including further education); include a power to pilot giving children the right to make appeals to the Tribunal themselves, rather than it having to be through their parent; and to pilot the Tribunal making recommendations on the health and social care provision set out in an EHC plan.
19. The sections replace and extend, in relation to England, provisions in Part 4 of the Education Act 1996, associated regulations, and sections 139A to 139C of the Learning and Skills Act 2000, which will be repealed in relation to children and young people in the area of a local authority in England. Regulations will set out the detailed

*These notes refer to the Children and Families Act 2014
(c.6) which received Royal Assent on 13 March 2014*

requirements of particular provisions where provided for in the sections. A statutory Code of Practice will be developed to provide guidance on the new framework for SEN, for the approval of Parliament.

20. Pre-legislative scrutiny of the SEN provisions was undertaken by the House of Commons Education Select Committee. The Committee published its report on 18 December 2012 and the provisions in Part 3 reflect the Government's response to the report, published on 5 February 2013 (*Children and Families Bill 2013: Contextual Information and Responses to Pre-Legislative Scrutiny*).