

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 3 - children and young people in England with special Educational Needs OR DISABILITIES

Education, health and care plans

Section 38: Preparation of EHC plans: draft plan

223. This section sets out the process that must be undertaken by a local authority when preparing a draft EHC plan. The local authority must consult with the child's parents or the young person, to ensure they are involved in the planning process from the outset and their views are taken into account. The local authority must send a copy of the draft EHC plan to the child's parent or the young person and make sure that they are aware of the ways in which they can express their views on the content of the draft EHC plan.
224. The draft EHC plan must not name a specific institution or a type of institution. This is so that parents or young people have the opportunity to request (before the end of the time period which is specified in the notice sent to the parent or young person under *subsection (2)(b)*) that a particular school, further education college in England or other institution is named in the EHC plan before it is finalised. Parents and young people may request any institution of the types listed in *subsection (3)*. Parents and young people will also be able make representations for an independent school or post-16 independent specialist provider not included in this list as is the case under the current legislative framework (although there will be no corresponding duty on the local authority to name such an institution in the EHC plan or for that institution to be under a duty to admit the child or young person). Local authorities may also specify education otherwise than in a school or post-16 institution in an EHC plan where they consider this to be suitable provision.
225. This section replaces, in England, section 323 of the Education Act 1996.