

# CHILDREN AND FAMILIES ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

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

##### **Special educational provision: functions of local authorities**

##### ***Section 61: Special educational provision otherwise than in schools, post-16 institutions etc***

285. A local authority may arrange for special educational provision to be made for a child or young person otherwise than in a school, college or provider of relevant early years education. But before it can do so it has to be satisfied that it would be inappropriate for provision to be made in one of those settings and must have consulted the child's parent or the young person.
286. This provision could include, for example, early years provision that is not part of the free early years provision under section 7 of the Childcare Act 2006.
287. This section replaces, in England, section 319 of the Education Act 1996.

##### ***Section 62: Special educational provision outside England and Wales***

288. This section enables local authorities to arrange special education provision for a child or young person with an EHC plan outside England and Wales in an institution that specialises in providing for special educational needs, and gives them power to pay for, or contribute to, the costs of the child or young person attending such an institution.
289. This section replaces, in England, section 320 of the Education Act 1996.

##### ***Section 63: Fees for special educational provision at non-maintained schools and post-16 institutions***

290. Where a local authority is responsible for a child or young person with special educational needs, and special educational provision is made for him or her at a school, post-16 institution or provider of relevant early years education, the local authority must pay the fees for the education and training received where the institution is named in the EHC plan. This also applies if there is no EHC plan and the local authority is satisfied the child or young person requires special educational provision and that it is appropriate for them to receive it at the institution in question.
291. Where board and lodging are provided for the child or young person at such a school or college or place where relevant early years education is provided, the local authority must pay those fees if it is satisfied that special educational provision cannot be made there unless board and lodging are provided.
292. This section replaces, in England, section 348 of the Education Act 1996.

***Section 64: Supply of goods and services***

293. This section gives local authorities the power to supply goods and services to maintained schools, maintained nursery schools, Academies and institutions in the further education sector (further education colleges or sixth form colleges) that are likely to be attended by a person with an EHC plan that the authority is maintaining for the purpose of supporting children and young people with special educational needs. Local authorities may supply goods and services on terms and conditions they see fit (including payment). Local authorities may supply goods and services to other local authorities and other bodies to help them make special educational provision for children receiving relevant early years education. This could cover specialist services to support children with different special educational needs, for example, sensory impairments.
294. This section replaces, in England, section 318 of the Education Act 1996.

***Section 65: Access to schools, post-16 institutions and other institutions***

295. This section gives local authorities in England the right to have access at any reasonable time to the premises of a school or other institution in England at which education or training is provided to a child or young person with an EHC plan maintained by the local authority in question, for the purpose of monitoring that education or training.
296. The section replaces, in England, and expands the remit of, section 327 of the Education Act 1996. Section 327 only applies to maintained schools which are maintained by another authority and independent schools. This section takes account of the extended age remit to which the new special educational needs provisions apply and applies to any institution providing the child or young person with education or training in accordance with an EHC plan. Local authorities will, under this section, have access to schools and special post-16 institutions in Wales (but not to general further education institutions in Wales) for the purpose of monitoring the education or training made under an EHC plan.