

#1 Introduction to the Children and Families Act

ASK THE JUDGE



Frequently asked questions for parents and young people

These Frequently Asked Questions have been prepared to provide a summary of the key duties on local authorities following the introduction of the Children and Families Act 2014. They are not to be treated as providing legal advice and should be used as a guide only.

If legal advice is required contact SEN4You directly on 01908 082422 or Advice@SEN4You.co.uk

KEY PROVISIONS

- Sections 19, 21, 22, 23, 24, 27, 30 and 77 Children and Families Act 2014
- The Education (Special Educational Needs and Disability 2014) Regulations
- SEN and Disability Code of Practice 2014

Does the local authority have a duty to identify children and young people with Special Educational Needs (SEN)?

Local authorities must carry out their functions with a view to identifying all the children and young people in their area who have or may have SEN or have or may have a disability (Section 22 of the Children and Families Act 2014).

When is the local authority responsible for a child or young person?

A local authority is responsible for a child or young person if he or she lives in the authority's area and has been (Section 24 of the Children and Families Act 2014):

- Identified by the local authority as someone that may have SEN; or
- Brought to the attention of the local authority as someone who has or may have SEN.

Does the local authority have to take into account parental and the young person's views when exercising their duties under the Act?

Section 19 of the Children and Families Act 2014 makes clear

that local authorities, in carrying out their functions under the Act in relation to disabled children and young people and those with SEN, must have regard to:

- The views, wishes and feelings of the child or young person, and the child's parents;
- The importance of the child or young person, and the child's parents, participating as fully as possible in decisions; and being provided with the information and support necessary to enable participation in those decisions;
- The need to support the child or young person, and the child's parents, in order to facilitate the development of the child or young person; and
- To help them achieve the best possible educational and other outcomes, preparing them effectively for adulthood.

Who is required to support local authorities in carrying out their duties under the Act?

Local authorities, Clinical Commissioning Groups and other partners must work together in local Health and Wellbeing Boards to assess the health needs of local people, including those with SEN or who are disabled. This assessment, the Joint Strategic Needs Assessment, informs a local Health and Wellbeing Strategy which sets priorities for those who commission services.

Local authorities must keep their educational and training provision and social care provision for children and young people with SEN and disabilities under review (Section 27 of the Children and Families Act 2014).

In carrying out this duty, the local authority will gather information from early years providers, schools and post-16 institutions. In most cases, these institutions must, in turn, co-operate with the local authority.

Who has a right to notify the local authority if they suspect a child or young person has SEN or a disability?

Anyone can bring a child or young person who they believe has or probably has SEN or a disability to the attention of a local authority (Section 24 of the Children and Families Act 2014) and parents, early years providers, schools and colleges have an important role in doing so.

Do health professionals have a duty to identify children and young people with SEN?

CCGs, NHS Trusts and NHS Foundation Trusts must inform the appropriate local authority if they identify a child under compulsory school age as having a disability or having, or probably having, SEN or a disability (Section 23 of the Children and Families Act 2014).

Health bodies must co-operate with the local authority in commissioning integrated, personalised services and designing the Local Offer (including ensuring relevant contracts with providers reflect the needs of the local population).

Clinicians and providers will:

- Support the identification of children and young people with SEN, particularly at key points such as in the early years through the progress check at age two, the integrated health check and through the healthy child programme;
- Respond to requests for advice for an EHC Plan within required time limits;
- Make available health care provision specified in the EHC Plan as per their commissioned role;
- Contribute to regular reviews of children and young people with EHC Plans where requested/relevant.

What information does the local authority have to provide parents and young people with in respect of local SEN provision?

The local authority must ensure children, young people and parents are provided with information and advice on matters relating to SEN and disability. This could include:

- Local policy and practice;
- The Local Offer (Section 30 of the Children and Families Act 2014);
- Personalisation and Personal Budgets;
- Law on SEN and disability, health and social care, through suitably independently trained staff;
- Advice for children, young people and parents on gathering, understanding and interpreting information and applying it to their own situation;
- Parent support groups, local SEN youth forums or local disability groups, or training events.

What is the SEN and Disability Code of Practice and who has to take note of it?

The Code of Practice is statutory guidance for organisations who work and support children and young people with SEN and/or disabilities to secure the outcomes from education, health and social care which will have an impact on their learning and wellbeing. The following organisations therefore must have regard to this guidance (Section 77 of the Children and Families Act 2014):

- Local authorities (education, social care and relevant housing and employment and other services);
- The governing bodies of schools, including non-maintained special schools;
- The governing bodies of further education colleges and sixth form colleges;
- The proprietors of academies (including free schools, University Technical Colleges and Studio Schools);
- The management committees of pupil referral units;
- Independent schools and independent specialist providers approved under section 41 of the Children and Families Act 2014;
- All early years providers in the maintained, private, voluntary and independent sectors that are funded by the local authority;
- The National Health Service Commissioning Board;
- Clinical commissioning groups (CCGs);
- NHS Trusts;
- NHS Foundation Trusts;
- Local Health Boards;
- Youth Offending Teams and relevant youth custodial establishments;
- The First-tier Tribunal (Special Educational Needs and Disability).

