

Get in on the Act:

Children and Families Act 2014

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Background

The Children and Families Bill was introduced in the House of Commons on 4 February 2013, completed its Parliamentary stages on 10 February 2014 and received Royal Assent on 10 March 2014. During its passage through Parliament, the Bill saw a net increase of 30 clauses, either at the behest of parliamentarians, mainly in the House of Lords, or the Government.

The Children and Families Act 2014 (the Act) covers adoption and contact, family justice, children and young people with Special Educational Needs (SEN), child care and child welfare. The nine Parts of the Act are as follows:

1. Adoption and contact
2. Family justice
3. Children and young people in England with SEN or Disabilities
4. Childcare
5. Welfare of children
6. The Children's Commissioner
7. Statutory rights to leave and pay
8. Time off work: ante-natal care
9. Right to request flexible working

The Local Government Association (LGA) was heavily involved in making representations to members of both Houses of Parliament during the passage of the legislation and was successful in securing amendments to the legislation on issues of concern to local government. This publication aims to provide readers with an introduction to the Act and summarises the main issues and principles, of relevance to local government, enshrined within it.

The role of the LGA and local government in influencing the legislation

On behalf of local government, the LGA played an active role in helping to influence the legislation during its passage through Parliament. On a number of issues, the LGA was able, alongside other stakeholders, to persuade the Government to make changes or accept amendments which would be beneficial to children and young people and to the communities served by local authorities.

During the passage through Parliament, the LGA:

- Secured an amendment to the legislation to prevent the Secretary of State from using a power to remove all local authorities from adopter recruitment and assessment without a debate and vote in both Houses of Parliament.
- Helped to bring about clarification of the definition of 'special educational provision' so that it now states that health or social care provision which 'educates or trains, a child or young person' is to be treated as special educational provision, thus avoiding parents and young people pursuing cases against local authorities at the Tribunal over provision which is the clear responsibility of health bodies.
- Successfully campaigned against calls for the 'Local Offer' to be made more prescriptive and briefed against amendments which sought to introduce minimum standards.
- Helped to bring about clarification from

the Government that, when determining whether a young person's EHC plan should cease, local authorities should have regard to 'whether the educational or training outcomes specified in the plan have been achieved', rather than the young person's age.

- Helped secure the introduction of a review of the effectiveness of the arrangements on appeal and the requirement that a report be laid before Parliament within three years of the Act coming into force, which leaves scope for the appeals process to be improved in the future.
- Helped to bring about stronger requirements on providers of education in youth custody to cooperate with 'home' local authorities to ensure they work together to deliver support for young offenders with SEN in custody, and a provision to this effect was inserted by the Government.
- Made the case to the Government that any changes introduced by the Act which impose duties on local authorities, such as free school meals and 'staying put', must be fully funded and not require local authorities to cover the shortfall.

Implications for local government

The Children and Families Act 2014 will have a significant impact on local government, its members and officers. Parts 1 to 3 cover the work of children's services, with particularly wide-reaching reforms to the existing SEN legislation set out in Part 3. Children's services legal teams will be affected by the reforms set out in Part 2 (Family justice), as will local government human resources teams by Parts 7, 8 and 9 which change workplace practices.

Part 1: Adoption and Contact

Part 1 of the Act on adoption brings into effect the reforms set out in An Action Plan for Adoption (published by the Government in March 2012) and Further Action on Adoption

(January 2013), which aimed to address the delays in the adoption system. To this end, section 2 provides for 'fostering for adoption', allowing local authorities to place children with prospective adoptive parents who have been approved as foster parents while adoption proceedings are ongoing. In addition, the requirement that due consideration is given to the ethnic match between the child and the prospective adoptive parents is removed (section 3) on the basis that seeking such a match led to delays. Other new provisions to speed up adoptions and support prospective adopters in Part 1 include requirements that local authorities provide personal budgets to adoptive families, information about their entitlements to support and access to the Adoption Register (sections 5, 6 and 7 respectively).

A new system of post-adoption contact is introduced with the aim of reducing the disruption that contact can cause. The court may now order contact with various people, including blood relations and former guardians, or no contact.

The LGA's campaigning activity on Part 1 centred on a clause which gave the Secretary of State the power to require all local authorities to commission adopter recruitment services from one or more other adoption agencies. The intention was that the power could be used to tackle the significant shortage of adopters by creating a market. The effect of this power, if used, would have been to remove all local authorities from adopter recruitment and assessment. The LGA called for the clause to be struck out, supporting Peers who opposed it, and put forward amendments which would mitigate against its impact. Following a sustained campaign, the Government firstly brought forward an amendment which delayed the use of the power until March 2015 and then accepted an amendment which required an active debate and vote in both Houses of Parliament before it could be used. The amended clause is now section 3.

Part 2: Family Justice

Part 2 of the Act implements the recommendations of the 'Family Justice Review' (published in 2012 after a two year review period) aimed at improving the operation of the family justice system, both for families in court after separation and when children are taken into care.

The provisions in Part 2, which relate to public law cases and aim to reduce the length of care proceedings, are relevant to local authorities. Section 14 introduces a 26 week time limit for completing care proceedings with an extension available if the court considers it necessary to resolve the proceedings justly and requires it to have particular regard to impact of the timetable on the welfare of the child. In addition, tighter controls are placed on expert evidence, restricting it to where it is 'necessary', rather than 'reasonably required' and there are now specific factors that the court must consider in deciding whether to give permission. This does not, however, apply to local authority social workers or Children and Family Court Advisory and Support Service staff giving evidence.

Part 3: Children and Young People in England with SEN or Disabilities

Of particular importance to local authorities is Part 3 of the Act which contains provisions set out in the Green Paper, 'Support and Aspiration: A new approach to special educational needs and disability' (March 2012). This Part introduces a major reform of the present statutory framework for identifying children and young people with SEN, assessing their needs and making provision for them. Local authorities retain their pivotal role in identifying, assessing and securing the educational provision for children and young people with SEN. This Part was also amended by the Government to include disabled children and young people with SEN in the provisions on identifying children and young people, integrating education, health and care provision, joint commissioning, the Local Offer and providing information and advice.

A key concern for the LGA was the definition of 'special educational provision' which, in the original version of Bill, was described as 'health and social care provision which is made wholly or mainly for the purposes of education or training'. The LGA was concerned that the lack of clarity in the language could result in local authorities being taken to the First Tier Tribunal with regards to provision that was the responsibility of health bodies. The LGA called for the definition to be clarified and supported amendments to this effect. The Government conceded and clarified the clause so it now states that health or social care provision which 'educates or trains, a child or young person' is to be treated as special educational provision (instead of health care provision or social care provision) (section 21(5)).

The Act introduces the concept of the 'Local Offer' (section 30). This is information on the special educational provision for children and young people with SEN which local authorities expect to be available. Local authorities must publish a Local Offer, keep it under review and publish comments made about it by parents and young people and the action they intend to take. The LGA successfully campaigned against calls for the Local Offer to be made more prescriptive and briefed against amendments which sought to introduce minimum standards. The LGA's concern was that central prescription would reduce councils' flexibility to provide local solutions, based on discussions with parents and young people, and respond to individual and local needs. In addition, central prescription would likely fail to take account of the fact that funding allocated to councils by the Government for SEN provision can vary greatly.

The Act replaces the Statement of SEN and Learning Difficulty Assessments (LDAs) for those over the age of 16 with Education, Health and Care (EHC) Plans. If following assessment, special educational provision is required, local authorities must secure that an EHC Plan is prepared and subsequently maintained for a child or young person (section 37).

At Report Stage of the Bill, the Government accepted an amendment to require EHC plans to include any social care provision required by a child or young person under the age of 18 under section 37(2)(e) of the Chronically Sick and Disabled Persons Act 1970. Under the Act, therefore, local authorities must identify any social care provision necessary, specify that provision clearly in the EHC plan and secure it. The forthcoming Care Act 2014 will provide for local authorities to carry out a transition assessment if a young person is likely to have needs for care or support on turning 18 and meet these needs under the Care Act 2014 in advance of the child being cared for turning 18.

Under the Act, a local authority may continue to maintain an EHC Plan for young people over 19 if a young person requires additional time, in comparison to the majority of others of the same age who do not have SEN, to complete his or her education or training. Local authorities may continue to provide special educational provision until the end of the academic year in which the young person turns 25.

With regards to determining when the EHC plan should cease, in its original form, the Bill required local authorities to 'have regard to age'. The LGA called for the Government to clarify the provision and state whether young people aged 19-25 will be entitled to remain in full time education until the age of 25. The Government subsequently introduced an amendment to the wording that local authorities must have regard to 'whether the educational or training outcomes specified in the plan have been achieved' when determining whether a plan should cease. The LGA welcomed this shift from focusing on the age of the young person towards their outcomes as this will allow the education element of an EHC plan to continue until the appropriate point for the individual young person to cease education between the ages of 19 and 25 (section 45).

Throughout the passage of the Bill through Parliament, there were calls for a better system of complaints and redress for parents and young people. The LGA argued that, because the EHC Plan integrates education, health and social care, this should be reflected in a single route of redress and appeal. This would mean that parents who have concerns or complaints about the health or social care elements of a plan would not have to go through a separate process to obtain redress. The LGA called for health commissioners, who are under a key statutory duty to arrange the specified health care provision for the child or young person, to be included in the single route of appeal. At a late stage, the Government introduced a review of the effectiveness of redress arrangements and the requirement that a report be laid before Parliament within 3 years of the Act coming into force (section 79). This leaves scope for the appeals process to be improved in the future.

The Government made a number of late amendments giving rights to parents and young people to pursue mediation on education, health and social care provision. Councils are required to arrange independent mediation on education and social care issues (section 54), unless the issues are limited to the health provision, or lack of such provision, in an EHC plan (section 53). They are also given new duties to make arrangements with a view to avoiding or resolving disputes between the local authority or school or other educational institution and a child's parents or young person (section 57). The LGA has called for these, and the other new duties imposed on councils, to be fully funded by the Government.

Under the Act, local authorities can arrange for a child or young person's special educational provision to be met otherwise than in a school, early years provision or post 16-institution (section 61) and outside England and Wales (section 62). The LGA supported amendments to limit the provision to within England and Wales (section 62) because of the significant cost burden this could present. These amendments gave rise to assurance from the

Government that the provision replicated a little-used existing provision in the Education Act 1996, did not place a duty on local authorities or give them any new powers and maintained the existing protections for parents.

Sections 70 to 75, which relate to detained young people aged 18 or under with SEN, were added when the Bill was in the House of Lords. In its original form, children and young people in custody were specifically excluded from the Bill's SEN provisions. The LGA, along with many other stakeholders in the youth justice sector, opposed this. The Government introduced a series of amendments which placed duties on 'home' local authorities (the authority where the young person was living prior to their detention) to arrange for appropriate special educational provision for young offenders in custody with EHC plans, to assess whether young people in custody need an EHC plan and to make special educational provision for them on release from detention. Currently, similar duties for educational provision rest with 'host' authorities where youth offending institutions are located but it is extremely difficult for them to fulfil these duties as they have neither the commissioning responsibility for custodial education nor the funding. The LGA has long argued for this situation to be resolved. In addition, the LGA called for stronger requirements on providers of education in youth custody to cooperate with home local authorities to ensure they work together to deliver support for young offenders with SEN in custody and comply with the new SEN Code of Practice. A provision to this effect was inserted by the Government (section 28).

Part 4: Childcare

Part 4 of the Act contains provisions on childcare, as set out in 'More Great Childcare' (published 2013). It includes a repeal of the duty on local authorities to prepare, at least every three years, an assessment of the sufficiency of the provision of childcare in their area (section 86). However, local authorities are still required to secure sufficient childcare.

Part 5 of the Act concerns the welfare of children and comprises of provisions, added by the Government following pressure from Peers in the House of Lords, which regulate the sale of tobacco and nicotine products and smoking in cars with children present. In particular, they add an offence of purchasing tobacco for consumption by someone under the age of 18 (section 91), which will be enforced by local authorities and will need to be built into their test purchasing practices. Local authorities are also designated as enforcement bodies for ensuring that cars carrying passengers under 18 remain smoke-free areas (section 95), although regulations making this possible have not yet been introduced.

Section 94 gives the Secretary of State the power to make regulations to standardise tobacco packaging when and if he or she considers that they may contribute to reducing the risk of harm or promoting the health or welfare of children and young people. If such regulations are made, they will be enforced by local authority trading standards as safety regulations under the Consumer Protection Act 1987. In April 2014, the Government announced it was publishing draft regulations for a final short consultation with the aim of introducing legislation before May 2015.

Of most significance, are the new provisions concerning free school meals (section 106) and children in care 'staying put' in foster care until 21 (section 98). The LGA welcomed the provision of free school meals for children in state-funded schools in reception, year 1 and year 2 in principle. However, the LGA called for clarification on the funding available in cases of a shortfall in meeting the costs entailed by the reform. The LGA urged the Government to fully fund the initiative so that schools can fulfil their duty and councils are not required to make up the short fall given the financial difficulties currently faced.

Young people are now able to stay with foster parents until the age of 21 ('staying put'), if both parties agree and if the local authority

determines that it would be appropriate, although they will not have 'looked-after' status. The new arrangements are supported by the provision of £40 million to local authorities over three years. The LGA called for this new provision to be fully funded by central government as councils could not afford to make up any funding gap.

Similarly, the LGA called for carers' and parent carers' needs assessments (sections 96 and 97 respectively), which local authorities will be required to conduct, to be fully funded by central government. Under the Act, young carers are now entitled to a support needs assessment regardless of the type or frequency of care they provide and parent carers are now no longer required to provide a substantial amount of care on a regular basis in order to be eligible.

The LGA sought clarification from the Minister about the consequences of a clause on the Secretary of State's powers of intervention in children's services inserted late on in the passage of the Bill (section 101). The LGA's concern was that the wide drafting of the clause could have unintended repercussions for local authorities. At the LGA's suggestion, Peers tabled an amendment to request clarification from the Government and, during the debate that followed, the Minister allayed the concerns and confirmed the procedure on intervention.

Also of relevance in Part 5 is the removal of restrictions on local authorities issuing performance licences to children under 14 (section 90).

Parts 7-9: Employment

Parts 7, 8 and 9 of the Act change workplace practice to support better parenting as set out in the Government's response to the 'Modern Workplaces' consultation and will be of relevance to local authorities in their role as employers. In brief, the Act contains new provisions which enable the sharing of parental leave following the birth of a child or an adoption, time off work to accompany a

partner to ante-natal or adoption appointments and the extension of the right to request flexible working to all employees, not just those with parental or caring responsibilities.

Further information

The Act extends to England and Wales only, and affects England only, with some exceptions, such as Part 2 (Family justice) which extends to Wales and Parts 7, 8 and 9 which extend to Scotland. Only those sections of most relevance to local government are referenced and discussed here.

At the time of writing (April 2014), the SEN Code of Practice, along with additional regulations under Part 3 of the Act and information on transitional arrangements, is still awaited and is expected to be published in early summer. This will provide practical advice and guidance for authorities and other organisations, including schools and colleges, and for parents and young people to understand and navigate the new system.

The Key Provisions

Part 1: Adoption and Contact (Sections 1 to 9)

Section 2 enables local authorities to place children with prospective adopters more swiftly, by requiring them to consider placing the child in a 'Fostering for Adoption' placement if one is available.

Section 3 removes the requirement that due consideration should be given to ethnicity, religious persuasion, racial origin and cultural and linguistic background when seeking prospective adopters so that children are not waiting in care longer than necessary because local authorities are seeking a perfect or partial ethnic match.

Section 4 allows the Secretary of State, after March 2015, to require local authorities to outsource adopter recruitment, assessment and approval to an adoption agency. This power may apply to all local authorities in

England, subject to the approval of the House of Commons and the House of Lords.

Sections 5, 6 and 7 place duties on local authorities to provide support for adoptive families through personal budgets (Section 5), give prospective adopters and adoptive parents information about their entitlements to support (Section 6) and access to national register of children for whom adoptive parents are sought (Section 7).

Sections 8 and 9 change the arrangements for contact between children in care and adopted children and their birth parents, siblings, guardians and certain others with the aim of reducing disruption that can be caused by inappropriate contact.

Part 2: Family Justice (Sections 10 to 18)

Section 13 introduces the requirement that the courts must give permission for expert evidence to be used in care proceedings, however this does not apply to local authority social workers or Children and Family Court Advisory and Support Service staff.

Section 14 introduces a 26 week time limit for completing care and supervision proceedings when the courts are considering whether a child should be taken into care, with the possibility of extending the time limit in a particular case for up to eight weeks at a time. It also removes the existing eight week time limit on the duration of interim care orders and interim supervision orders, and the four week time limit on subsequent orders, and allows the court to make interim orders for the length of time it sees fit. When courts revise the timetable, they must consider the impact this might have on the welfare of the child.

Section 15 requires that the courts only consider the permanence provisions of a care plan, in other words the long-term plan for the upbringing of the child concerned.

Part 3: Children and Young People in England with SEN or Disabilities (Sections 19 to 83)

Section 19 sets out the matters to which local authorities must have regard in exercising their functions in cases of children and young people with SEN. These include the wishes and feelings of the child, young person and their parents and the importance of the child or young people participating in decision-making.

Section 20 defines SEN as ‘a child or young person has special educational needs if he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her’.

Section 21 defines special educational, health and social care provision and states that health care provision or social care provision which educates or trains a child or young person is to be treated as special educational provision.

Section 22 places a duty on local authorities to identify all children and young people who have or may have SEN or a disability.

Section 23 requires health bodies, including clinical commissioning groups, NHS trusts and NHS foundation trusts, to bring children below compulsory school age who have, or probably have, SEN or a disability to the attention of the local authority, as well as the parents.

Section 24 states that local authorities are responsible for children or young people they have identified as having SEN or who have been brought to their attention as having SEN.

Section 25 requires that local authorities must ensure educational and training provision is integrated with health and social care provision where this promotes the well-being of children or young people in their area with SEN or a disability or improves the quality of special educational provision.

Section 26 obliges local authorities, clinical commissioning groups and, where relevant,

NHS Commissioning Boards to make joint arrangements to plan and commission education, health and social care provision for children and young people with SEN or a disability.

Section 27 requires local authorities to keep under review educational provision, training provision and social care provision made both in and outside their area for children and young people who have SEN or a disability and for whom they are responsible. To do this, local authorities must consult a range of partners, including schools and children and young people with SEN and disabilities.

Section 28 requires local authorities to cooperate with a range of local partners to fulfil their duties relating to children and young people with SEN and disabilities. Local partners include the district council (for county councils), maintained schools, nurseries and academies and further education colleges, clinical commissioning groups and other health bodies in the authority's area.

Section 29 requires educational institutions to cooperate with local authorities, and vice versa, to fulfil duties relating to children and young people with SEN and disabilities.

Section 30 requires local authorities to publish information in a 'Local Offer' on the services they expect to be available for children and young people with SEN and disabilities both in and outside their area. As well as education, health and care provision, this includes arrangements for travel to and from schools and provision to assist in preparing children and young people for adulthood and independent living. Local authorities must from time to time publish comments received about the Local Offer from children, young people and parents, and what action they intend to take in response to these.

Section 31 places certain persons or bodies under a duty cooperate with local authorities when requested. These include other local authorities, youth offending teams, persons

in charge of relevant youth accommodation and NHS bodies. The duty applies unless cooperation would be incompatible with the other bodies' duties or have an adverse effect on their services.

Section 32 places local authorities under a duty to provide advice and information about matters relating to SEN and disability to children and young people and their parents, as well as educational institutions in their area.

Section 33 applies to those with an Education Health and Care (EHC) plan and states that local authorities must secure that the plan provides for the child or young person to be educated in a maintained nursery school, mainstream school or mainstream post-16 institution, unless that is incompatible with the wishes of the child's parents or young person and the provision of efficient education of others.

Section 34 applies to children and young people who have SEN but no EHC plan. The child or young person must be educated in mainstream provision, unless he or she is at an independent school, a non-maintained special school or a special post-16 institution where the cost is not met by a local authority.

Section 36 provides that, when a parent, young person or their school requests an education, health and social care needs assessment, local authorities must determine whether special educational provision is necessary in accordance with an EHC plan. In doing so, the child's parent or the young person must be consulted and, if no needs are determined, given reasons.

Section 37 states that, if required following a needs assessment, local authorities must secure and maintain an EHC plan. The plan should specify the child's or young person's SEN, the outcomes sought, the special educational provision required and any health and social care provision reasonably required by their learning difficulties and disabilities. For any child or a young person aged under

18, the plan must also include any social care provision which must be made for him or her as a result of section 2 of the Chronically Sick and Disabled Persons Act 1970.

Section 38 states that local authorities must consult the child's parent or the young person about the content of the draft EHC plan, send them the draft plan and inform them of their right to make representations about the content, and request that a particular school or other institution is named in the plan.

Section 39 states that, where local authorities receive a request for a particular school or other institution to be named in an EHC plan, they must consult the school or other institution and secure that the school is named, unless it unsuitable in which case an alternative must be named. Where a school or other institution maintained by another local authority is named, that local authority must be consulted.

Section 40 provides that, where no request for a particular school or institution has been made, local authorities must name or specify the type of school or other institution which would be appropriate, consult with the school or other institution and inform the child's parent or young person.

Section 42 places a duty on local authorities to secure the special educational provision in an EHC plan. If the plan specifies health care provision, the responsible health commissioning body must secure this.

Section 43 places a duty on schools and institutions named in an EHC plan to admit the child or young person.

Section 44 requires local authorities to review an EHC plan within 12 months of the date on which the plan was first made, and then within each subsequent period of 12 months. If a child's parent or the young person or the school or other institution which the child or young person attends requests a review, local authorities must secure a re-assessment and, in doing so, consult the child's parent or the young person.

Section 45 states local authorities may cease to maintain an EHC plan only if they are no longer responsible for the child or young person or if they determine that the special educational provision is no longer needed. In determining whether a young person aged over 18 no longer requires the special educational provision specified in an EHC Plan, a local authority must have regard to whether the educational or training outcomes specified in the plan have been achieved.

Section 46 allows local authorities to maintain an EHC plan for a young person until the end of the academic year during which he or she attains the age of 25.

Section 47 provides for transfer of an EHC plan by one local authority to another, where the other authority becomes responsible for the child or young person.

Section 48 states that, when a child or young person who previously had an EHC Plan is released from detention, a local authority becomes responsible for him or her and must maintain and review the plan.

Section 49 requires local authorities maintaining or securing the preparation of an EHC plan to prepare a personal budget for a child or young person if asked to do so by the child's parent or the young person.

Section 50 enables local authorities to continue to provide children's services under Section 17 of the Children Act 1989 (but not necessarily those services provided under the Chronically Sick and Disabled Person Act 1970) as long as an EHC plan is maintained after the young person reaches the age of 18.

Section 51 sets out the matters on which a child's parents or young person may appeal to the First Tier Tribunal.

Section 52 states that, before the end of the prescribed period during which a decision is made or the EHC plan is made, amended or repealed, local authorities must notify parents or the young person of the right to mediation.

Parents or the young person must inform the local authority if they wish to mediate and, if so, what the issues are.

Section 53 states that, if the mediation issues include health care provision, local authorities must inform the health commissioning body. If only health issues are concerned, the health commissioning body must arrange the mediation, ensure the mediator is independent and participate. Otherwise, local authorities must arrange the mediation, ensure the mediator is independent and participate.

Section 54 states that, if the mediation issues do not include health care provision, local authorities must arrange the mediation, ensure the mediator is independent and participate.

Section 55 states that a child's parent or young person wishing to appeal to the First-Tier Tribunal in respect of a decision of a local authority or the content of an EHC plan may only appeal if they have been given a certificate by a mediation adviser which verifies that advice regarding mediation has been given and that the parents or young person have either participated or said they do not wish to participate.

Section 56 contains rules on how mediation should operate.

Section 57 states that local authorities must make arrangements for avoiding or resolving disputes between the local authority or school or other educational institution and a child's parents or young person with an EHC Plan. An independent person must be appointed to resolve the dispute.

Sections 58 and 59 enable the Secretary of State to pilot giving children the ability to make appeals to the Tribunal, rather than through a parent. This arrangement may be made permanent two years after the pilot has commenced.

Section 61 allows local authorities, if they are satisfied that it would be inappropriate for educational provision to be met in a school,

post-16 institution or early years provision, to arrange for special educational provision to be met elsewhere and after consulting the child's parent or young person.

Section 62 states that local authorities may arrange for a child or young person to attend an institution outside England and Wales which specialises in SEN. This includes contributing to or paying the fees, travel expenses of the child or young person and someone accompanying him or her and expenses occurred in maintaining the child.

Section 63 states that local authorities must pay the fees, including board and lodging, of a child or young person attending a non-maintained school or post-16 institution which is named in an EHC plan. Where there is no EHC plan, and special educational provision is required to meet the SEN of the child or young person, the local authority must also pay the fees.

Section 64 states that local authorities may supply goods and services to a maintained school or academy to assist them in providing special educational provision for children and young people with SEN.

Section 65 gives local authorities a right of access at any reasonable time to all educational institutions, including academies, which have a child or young person with an EHC Plan for the purpose of monitoring the education or training given.

Section 66 places duties on a range of schools and institutions, including academies and further education colleges, to use their best endeavours to secure special educational provision for pupils with SEN.

Section 71 allows a detained young person aged 18 or under, a parent or the 'appropriate person' in charge of the youth accommodation to request 'home authorities' to determine whether special educational provision in an EHC plan is needed on release from detention. In making this determination, the home local authority must consult the parents of the

detained young person or the detained young person. The local authority is obliged to notify interested parties of the outcome of the assessment.

Section 72 states that, where a detained person aged 18 or under needs special educational provision in accordance with an EHC plan on release from detention, home local authorities must secure it.

Section 73 states that an ‘appropriate person’ may appeal to the First Tier Tribunal against a home local authority’s decision not to assess a detained person’s needs, that special educational provision is not needed or on the type of school or institution named in the EHC plan.

Section 74 obliges home local authorities to keep EHC plans for detained young persons who had them prior to their detention. The home authority must arrange appropriate special educational provision while the detained person is in youth accommodation. Where the plan specifies health care provision, appropriate provision must be arranged by the relevant health services commissioner.

Sections 77 and 78 cover the Code of Practice, which accompanies the Act and must be laid in draft before both Houses of Parliament by the Secretary of State and approved by a resolution of each House. The Code applies to a range of organisations, including local authorities, all types of maintained schools and colleges, academies, NHS bodies, early years providers and youth offending teams.

Section 79 states that a review of how effectively disputes about the exercise of functions under Part 3 of the Act must be carried out and a report laid before Parliament within three years of commencement.

Part 4: Childcare (Sections 84 to 89)

Section 86 repeals local authorities’ duties to assess the sufficiency of childcare provision, although their duty to secure sufficient

childcare remains.

Section 87 allows for regulations about the way local authorities meet their duty to secure early years provision. The regulations can require local authorities to meet the duty by arranging for early years provision from a provider chosen by a parent of the child.

Section 88 allows maintained schools to create childcare provision at the school without consulting the local authority, staff and parents.

Part 5: Welfare of Children (Sections 90 to 106)

Section 90 removes the restriction on local authorities issuing performance licences to a child under the age of 14.

Section 91 makes it a criminal offence for a person over the age of 18 to buy tobacco or cigarette papers on behalf of a child or young person under 18.

Sections 92 and 93 prohibit the sale of nicotine products, for example e-cigarettes, to children or young people under 18 and make it a criminal offence to do so.

Section 94 allows the Secretary of State to standardise tobacco packaging if considered this would contribute to reducing the risk of harm or promoting the health or welfare of children and young people under 18.

Section 95 allows the Secretary of State to require that cars in which children and young people under 18 are travelling are smoke free.

Section 96 requires local authorities to assess whether young carers within their area have support needs and, if so, what those needs are. The right to an assessment of need for support extends to all young carers under the age of 18, regardless of who they care for, what type of care they provide and how often they provide it. Local authorities must take reasonable steps to identify the extent to which there are young carers within their area who have needs for support.

Section 97 requires local authorities to assess whether parent carers within their area have support needs and, if so, what those needs are. The local authority should take reasonable steps to identify the extent to which there are parent carers within their area who have support needs. The requirement that carers provide a substantial amount of care on a regular basis in order to be assessed is removed.

Section 98 permits 'staying put arrangements' when former fostered children stay on with former foster parents until the age of 21, if parties so wish, and the local authority determines it appropriate. Local authorities must monitor and provide advice, assistance and support to the young person and the parent with a view to maintaining the arrangement. This may include financial support.

Section 99 states that local authorities must appoint a 'Virtual School Head' to promote the educational achievement of looked after children.

Section 100 places a duty on schools, including academies and pupil referral units, but not colleges, to make arrangements for supporting pupils with medical conditions.

Section 101 clarifies the law which allows for intervention by the Secretary of State, or by a third party nominee, where a local authority fails to perform its children's services functions.

Section 106 obliges state funded schools and academies to provide free school meals on request to all pupils in reception and years one and two. The duty can also be extended to nursery provision and all early years settings.

Part 6: The Children's Commissioner (Sections 107 to 116)

Section 108 allows the Children's Commissioner to provide advice and assistance directly to children living away from home or in care.

Section 109 allows the Commissioner, or a person authorised by him, to enter premises other than private dwellings to interview a child or observe the standard of care provided to children.

Parts 7, 8 and 9 - Employment (Sections 117 to 134)

The sections in these parts introduce a number of changes to workplace practice to better support parenting, including sharing of parental leave following the birth of a child or adoption, allowing partners of pregnant women time off work to attend ante-natal or adoption appointments and the right to request flexible working is extended to all employees, not just those with parental or caring responsibilities.

Thank you

Throughout the passage of the Bill through Parliament we worked closely with our Vice-Presidents, as well as other MPs and Peers, briefing them ahead of debates and suggesting amendments. On behalf of local government, we are grateful to all those parliamentarians who provided support and guidance during this time and championed the concerns and arguments of the sector.

Useful Links

For the full text of the Act, please refer to:
<http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

For the Explanatory Notes, please refer to:
<http://www.legislation.gov.uk/ukpga/2014/6/notes/contents>



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