

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Code of Practice

Section 77: Code of Practice

321. This section requires the Secretary of State to issue a Code of Practice giving guidance to local authorities, the governing bodies, proprietors and management committees of various institutions, and other bodies listed in *subsection (1)* on the exercise of their functions under these provisions. These bodies must have regard to the Code when carrying out those functions, as must those who help them carry out those functions.
322. The First-tier Tribunal must also have regard to any provision in the Code that it considers to be relevant to any question arising out of a special educational needs appeal with which it is dealing.
323. This section also empowers the Secretary of State to revise the Code from time to time, and requires him or her to publish the current version.
324. This section replaces, in England, section 313 of the Education Act 1996 and widens the scope of the bodies who must have regard to the Code from maintained schools, maintained nursery schools and local authorities to include colleges, Academies, pupil referral units and early years education providers.

Section 78: Making and approval of Code

325. This section sets out the procedure for making and approving the Code of Practice. It requires the Secretary of State, when he proposes to issue or revise a Code of Practice, to prepare a draft, consult those he sees fit and consider representations made by them. If he decides to proceed with the draft he must lay a copy before each House of Parliament.
326. In the case of the first draft of the Code, he cannot issue it until it has been approved by both Houses of Parliament. If he later revises the Code, he must not issue it if, within a period of 40 days, the House resolves not to approve the draft.
327. The section replaces section 314 of the Education Act 1996 in relation to England.

Section 79: Review of resolution of disagreements

328. This section requires the Secretary of State and the Lord Chancellor to carry out a review about how effectively disagreements in relation to children and young people with special educational needs are being resolved. The Secretary of State and the Lord Chancellor must prepare a report on the outcome of the review and lay a report before Parliament within three years from the earliest date on which any provision in Part 3 comes into force.

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

329. Part of the review will involve piloting the ability of the Tribunal to make recommendations about the health and social care elements of EHC plans in accordance with regulations which will be made under section 51(4)(a) and (5).