

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Special educational needs etc

Section 21: Special educational provision, health care provision and social care provision

167. This section defines special educational provision, health care provision and social care provision.
168. Special educational provision is additional or different from that which would normally be provided for children or young people of the same age in mainstream schools or colleges, maintained nursery schools and places at which relevant early years education is provided. It might include support from a specialist teacher, access to a specialist teaching programme, specialist ICT equipment or a specialist job coach. For children under two it means educational provision of any kind.
169. Health care provision means provision of health care services provided as part of the NHS. These services may be provided by or on behalf of NHS bodies including by private providers. Social care provision is provision made by local authority social services. Health care provision or social care provision which educates or trains the child or young person is to be treated as special educational provision (rather than health care or social care provision). This reflects the precedents set by case law in relation to the current special educational needs legislation.
170. The section replicates, and replaces in England, the current definition of special educational provision in section 312 of the Education Act 1996 and applies it to young people over compulsory school age.
171. Relevant early years education is defined in the section as having the same meaning as under section 123 of the Schools Standards and Framework Act 1998, that is, free early years provision (as defined in section 20 of the Childcare Act 2006) which is provided under arrangements made by a local authority pursuant to section 7 of the Childcare Act 2006.