
STATUTORY INSTRUMENTS

2014 No. 1530

The Special Educational Needs and Disability Regulations 2014

PART 2

Children and young people with special educational needs

Assessments

Consideration of request

3. A local authority must consult the child's parent or the young person as soon as practicable after—

- (a) receiving a request for an EHC needs assessment under section 36(1) of the Act, or
- (b) becoming responsible for the child or young person in accordance with section 24 of the Act,

before determining whether it may be necessary for special educational provision to be made in accordance with an EHC plan for the child or young person.

Determination whether or not special educational provision may be necessary

4.—(1) Where a local authority determines that it is not necessary for special educational provision to be made in accordance with an EHC plan it must notify the child's parent or the young person in accordance with section 36(5) of the Act as soon as practicable, but in any event within 6 weeks of—

- (a) receiving a request for an EHC needs assessment under section 36(1) of the Act, or
- (b) becoming responsible for the child or young person in accordance with section 24 of the Act.

(2) Where the local authority is considering securing an EHC needs assessment it must also notify—

- (a) the responsible commissioning body;
- (b) the officers of the local authority who exercise the local authority's social services functions for children or young people with special educational needs;
- (c) in relation to a child—
 - (i) if the child is a registered pupil ^{M1} at a school, the head teacher of that school (or the person holding the equivalent position), or
 - (ii) if the child receives education from a provider of relevant early years education, the person identified as having responsibility for special educational needs (if any) in relation to that provider; and
- (d) in relation to a young person—

- (i) if the young person is a registered pupil at a school, the head teacher of that school (or the person holding the equivalent position), or
- (ii) if the young person is a student at a post-16 institution, to the principal of that institution (or the person holding the equivalent position).

[^{F1}(3) The local authority need not comply with the time limit referred to in paragraph (1) if it is impractical to do so because of a reason relating to the incidence or transmission of coronavirus.]

Textual Amendments

F1 Reg. 4(3) inserted (temp.) (1.5.2020) by virtue of [The Special Educational Needs and Disability \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/471\)](#), regs. 1, 6 (with reg. 2(2))

Marginal Citations

M1 Pupil has the meaning in section 3 of the 1996 Act

Decision whether or not to conduct an EHC needs assessment

5.—(1) The local authority must notify the child's parent or the young person as soon as practicable and in any event within 6 weeks of—

- (a) receiving a request for an assessment under section 36(1) of the Act, or
- (b) becoming responsible for the child or young person in accordance with section 24 of the Act

of its decision whether or not it is necessary to secure an EHC needs assessment for the child or young person.

(2) The local authority must also notify the persons who were notified in accordance with regulation 4(2) of its decision.

(3) When notifying the child's parent or the young person of its decision that it is not necessary to secure an EHC needs assessment for the child or young person, it must also notify them of—

- (a) their right to appeal that decision;
- (b) the time limits for doing so;
- (c) the information concerning mediation, set out in regulation 32; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people.

(4) The local authority need not comply with the time limit referred to in paragraph (1) if it is impractical to do so because—

- (a) the local authority has requested advice from the head teacher or principal of a school or post-16 institution during a period beginning one week before any date on which that school or institution was closed for a continuous period of not less than 4 weeks from that date and ending one week before the date on which it re-opens;
- (b) the authority has requested advice from the person identified as having responsibility for special educational needs (if any), in relation to, or other person responsible for, a child's education at a provider of relevant early years education during a period beginning one week before any date on which that provider was closed for a continuous period of not less than 4 weeks from that date and ending one week before the date on which it re-opens;

- (c) exceptional personal circumstances affect the child, the child's parent, or the young person during the time period referred to in paragraph (1); [^{F2}or]
- (d) the child, the child's parent, or the young person, are absent from the area of the authority for a continuous period of not less than 4 weeks during the time period referred to in paragraph (1) [^{F3}; or
- (e) of a reason relating to the incidence or transmission of coronavirus].

Textual Amendments

- F2** Word in reg. 5(4)(c) omitted (temp.) (1.5.2020) by virtue of [The Special Educational Needs and Disability \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/471\)](#), regs. 1, **7(a)** (with reg. 2(2))
- F3** Reg. 5(4)(e) and word inserted (temp.) (1.5.2020) by virtue of [The Special Educational Needs and Disability \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/471\)](#), regs. 1, **7(b)** (with reg. 2(2))

Modifications etc. (not altering text)

- C1** Reg. 5 modified (1.9.2014) by [The Children and Families Act 2014 \(Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/2270\)](#), arts. 1(2), **6(8)**
- C2** Reg. 5 modified (1.9.2014) by [The Children and Families Act 2014 \(Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/2270\)](#), arts. 1(2), **5(8)**

Information and advice to be obtained of EHC Needs Assessments

6.—(1) Where the local authority secures an EHC needs assessment for a child or young person, it must seek the following advice and information, on the needs of the child or young person, and what provision may be required to meet such needs and the outcomes that are intended to be achieved by the child or young person receiving that provision—

- (a) advice and information from the child's parent or the young person;
- (b) educational advice and information—
 - (i) from the head teacher or principal of the school or post-16 or other institution that the child or young person is attending, or
 - (ii) where this is not available, from a person who the local authority is satisfied has experience of teaching children or young people with special educational needs, or knowledge of the differing provision which may be called for in different cases to meet those needs, or
 - (iii) if the child or young person is not currently attending a school or post-16 or other institution and advice cannot be obtained under sub-paragraph (ii), from a person responsible for educational provision for the child or young person, and
 - (iv) if any parent of the child or young person is a serving member of Her Majesty's armed forces, also from the Secretary of State for Defence;
- (c) medical advice and information from a health care professional identified by the responsible commissioning body;
- (d) psychological advice and information from an educational psychologist;
- (e) advice and information in relation to social care;
- (f) advice and information from any other person the local authority thinks is appropriate;
- (g) where the child or young person is in or beyond year 9, advice and information in relation to provision to assist the child or young person in preparation for adulthood and independent living; and

- (h) advice and information from any person the child's parent or young person reasonably requests that the local authority seek advice from.
- (2) Where it appears to the authority, in consequence of medical advice or otherwise, that the child or young person in question is either or both—
- (a) hearing impaired;
 - (b) visually impaired,
- and any person from whom advice and information is sought as provided in paragraph (1)(b) is not qualified to teach children or young people who are so impaired, then the advice sought shall be advice given after consultation with a person who is so qualified.
- (3) When seeking advice in accordance with paragraph (1)(b) to (h), the local authority must provide the person from whom advice is being sought with copies of—
- (a) any representations made by the child's parent or the young person, and
 - (b) any evidence submitted by or at the request of the child's parent or the young person.
- (4) The local authority must not seek any of the advice referred to in paragraphs (1)(b) to (h) if such advice has previously been provided for any purpose and the person providing that advice, the local authority and the child's parent or the young person are satisfied that it is sufficient for the purposes of an EHC needs assessment.

Matters to be taken into account in securing an EHC needs assessment

7. When securing an EHC needs assessment a local authority must—
- (a) consult the child and the child's parent, or the young person and take into account their views, wishes and feelings;
 - (b) consider any information provided to the local authority by or at the request of the child, the child's parent or the young person;
 - (c) consider the information and advice obtained in accordance with regulation 6(1);
 - (d) engage the child and the child's parent, or the young person and ensure they are able to participate in decisions; and
 - (e) minimise disruption for the child, the child's parent, the young person and their family.

Duty to co-operate in EHC needs assessments

- 8.—(1) Where a local authority requests the co-operation of a body in securing an EHC needs assessment in accordance with section 31 of the Act, that body must comply with such a request within 6 weeks of the date on which they receive it.
- (2) A body need not comply with the time limit referred to in paragraph (1) if it is impractical to do so because—
- (a) exceptional circumstances affect the child, the child's parent or the young person during that 6 week period;
 - (b) the child, the child's parent or the young person are absent from the area of the authority for a continuous period of not less than 4 weeks during that 6 week period; ^{F4}or]
 - (c) the child or young person fails to keep an appointment for an examination or a test made by the body during that 6 week period ^{F5}; or
 - (d) of a reason relating to the incidence or transmission of coronavirus].

Textual Amendments

- F4** Word in reg. 8(2)(b) omitted (temp.) (1.5.2020) by virtue of [The Special Educational Needs and Disability \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/471\)](#), regs. 1, **8(a)** (with reg. 2(2))
- F5** Reg. 8(2)(d) and word inserted (temp.) (1.5.2020) by virtue of [The Special Educational Needs and Disability \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/471\)](#), regs. 1, **8(b)** (with reg. 2(2))

Provision of advice, information and support to parents and young people

9. When securing an EHC needs assessment the local authority must consider whether the child's parent or the young person requires any information, advice and support in order to enable them to take part effectively in the EHC needs assessment, and if it considers that such information, advice or support is necessary, it must provide it.

Decision not to secure an EHC plan

10.—(1) Where, following an EHC needs assessment, a local authority decides that it is not necessary for special educational provision to be made for a child or young person in accordance with an EHC plan, the notification given in accordance with section 36(9) must be given as soon as practicable, and in any event within 16 weeks of the local authority receiving a request for an EHC needs assessment in accordance with section 36(1) of the Act, or of the local authority becoming responsible for the child or young person in accordance with section 24 of the Act.

(2) It must also notify the responsible commissioning body and the person notified in accordance with regulation 4(2)(c) or (d).

(3) When notifying a child's parent or young person in accordance with paragraph (1) the local authority must also notify them of—

- (a) their right to appeal that decision;
- (b) the time limits for doing so;
- (c) the information concerning mediation, set out in regulation 32; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people [^{F6}; and
- (e) the First-tier Tribunal's power to make recommendations under the Special Educational Needs and Disability (First-tier Tribunal Recommendations Power) Regulations 2017.]

(4) The local authority need not comply with the time limit referred to in paragraph (1) if it is impractical to do so because—

- (a) the authority has requested advice from the head teacher or principal of a school or post-16 institution during a period beginning one week before any date on which that school or institution was closed for a continuous period of not less than 4 weeks from that date and ending one week before the date on which it re-opens;
- (b) the authority has requested advice from the person identified as having responsibility for special educational needs (if any) in relation to, or other person responsible for, a child's education at a provider of relevant early years education during a period beginning one week before any date on which that provider was closed for a continuous period of not less than 4 weeks from that date and ending one week before the date on which it re-opens;

- (c) exceptional personal circumstances affect the child or the child's parent, or the young person during that time period; [^{F7} or]
- (d) the child or the child's parent, or the young person, are absent from the area of the authority for a continuous period of not less than 4 weeks during that time period [^{F8}; or
- (e) of a reason relating to the incidence or transmission of coronavirus].

Textual Amendments

- F6** Reg. 10(3)(e) and word inserted (3.4.2018) by [The Special Educational Needs and Disability \(First-tier Tribunal Recommendations Power\) Regulations 2017 \(S.I. 2017/1306\)](#), regs. 1, **8(2)**
- F7** Word in reg. 10(4)(c) omitted (temp.) (1.5.2020) by virtue of [The Special Educational Needs and Disability \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/471\)](#), regs. 1, **9(a)** (with reg. 2(2))
- F8** Reg. 10(4)(e) and word inserted (temp.) (1.5.2020) by virtue of [The Special Educational Needs and Disability \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/471\)](#), regs. 1, **9(b)** (with reg. 2(2))

Modifications etc. (not altering text)

- C3** Reg. 10 applied (with modifications) (1.9.2014) by [The Children and Families Act 2014 \(Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/2270\)](#), **arts. 1(2), 22(3)**, as amended (1.9.2015) by [The Children and Families Act 2014 \(Transitional and Saving Provisions\) \(Amendment\) \(No. 2\) Order 2015 \(S.I. 2015/1619\)](#), arts. 1, **4**
- C4** Reg. 10(1) excluded (1.9.2014) by [The Children and Families Act 2014 \(Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/2270\)](#), arts. 1(2), **7(12)**
- C5** Reg. 10(1) excluded (1.9.2014) by [The Children and Families Act 2014 \(Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/2270\)](#), arts. 1(2), **27(8)**
- C6** Reg. 10(3) applied (with modifications) (1.4.2015) by [The Special Educational Needs and Disability \(First-tier Tribunal Recommendation Power\) \(Pilot\) Regulations 2015 \(S.I. 2015/358\)](#), regs. 1, **7**

Changes to legislation:

There are currently no known outstanding effects for the The Special Educational Needs and Disability Regulations 2014, Cross Heading: Assessments.