

2015 No. 0000

EDUCATION

**The Special Educational Needs and Disability (Detained
Persons) Regulations 2015**

<i>Made</i>	- - - -	2015
<i>Laid before Parliament</i>		2015
<i>Coming into force</i>	- -	1st April 2015

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The Secretary of State makes the following Regulations, in exercise of the powers conferred by sections [XXX] of the Children and Families Act 2014(a):

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Special Educational Needs and Disability (Detained Persons) Regulations 2015 and come into force on 1st April 2015.

Interpretation

- 2.—(1) In these Regulations(b)—

“the Act” means the Children and Families Act 2014;

“the 2014 Regulations” means the Special Educational Needs and Disability Regulations 2014(c);

“the home commissioning body” means the responsible commissioning body which was responsible for commissioning health services for the detained person immediately before the detention.

(a) 2014 (c.6)

(b) The definitions in the Act are applied throughout these Regulations.

(c) S.I. 2014/1530

PART 2

Detained persons with special educational needs

Assessments

Consideration of request

3. A local authority must consult the appropriate person and the person in charge of the relevant youth accommodation as soon as practicable after—

- (a) receiving a request to secure a detained person's EHC needs assessment under section 71(2) of the Act, or
- (b) becoming responsible for the detained person in accordance with sections 71(4)(b) or (c) of the Act,

before determining whether it may be necessary for special educational provision to be made for the detained person in accordance with an EHC plan post-detention.

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 for the detained person in accordance with an EHC plan post-detention it must notify the appropriate person and the person in charge of the relevant youth accommodation where the detained person is detained, in accordance with section 71(6) of the Act as soon as practicable, but in any event within 6 weeks of—

- (a) receiving a request to secure a detained person's EHC needs assessment under section 71(2) of the Act, or
- (b) becoming responsible for the detained person in accordance with sections 71(4)(b) or (c) of the Act.

(2) Where the local authority is considering securing a detained person's EHC needs assessment it must also notify—

- (a) the home commissioning body;
- (b) the detained person's health services commissioner;
- (c) the officers of the local authority who exercise the local authority's social services functions for children or young people with special educational needs;
- (d) the appropriate youth offending team;
- (e) in relation to a child, if the child is a registered pupil^(a) at a school, the head teacher of that school (or the person holding the equivalent position), and
- (f) 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).

Decision whether or not to conduct a detained person's EHC needs assessment

5.—(1) The local authority must notify the appropriate person and the person in charge of the relevant youth accommodation where the detained person is detained as soon as practicable and in any event within 6 weeks of—

- (a) receiving a request to secure a detained person's EHC needs assessment under section 71(2) of the Act, or

(a) Pupil has the meaning in section 3 of the 1996 Act

- (b) becoming responsible for the detained person in accordance with sections 71(4)(b) or (c) of the Act

of its decision whether or not it is necessary to secure a detained person's EHC needs assessment.

(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 appropriate person of its decision that it is not necessary to secure a detained person's EHC needs assessment, 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 17; and
- (d) the availability of information and advice in connection with a detained person's EHC needs assessment.

(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) exceptional personal circumstances affect the child, the child's parent, or the young person during the time period referred to in paragraph (1); or
- (c) the child's parent is 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).

Information and advice to be obtained of a detained person's EHC Needs Assessments

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

- (a) advice and information from the appropriate person;
- (b) educational advice and information—
 - (i) (aa) from the head teacher or principal of the school or post-16 or other institution that the detained person was attending prior to their detention, or
 - (bb) 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
 - (cc) if the child or young person was not attending a school or post-16 or other institution immediately prior to their detention and advice cannot be obtained under sub-paragraph (bb), from a person who was responsible for educational provision for the child or young person prior to their detention, and
 - (ii) from the education provider who is responsible for providing education to the detained person while they are detained; and
 - (iii) if any parent of the detained 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 home 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 the person in charge of the relevant youth accommodation where the detained person is detained;
- (g) advice and information from the appropriate youth offending team;
- (h) advice and information from any other person the local authority thinks is appropriate;
- (i) 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
- (j) advice and information from any person the appropriate 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 detained 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 (j), the local authority must provide the person from whom advice is being sought with copies of—

- (a) any representations made by the appropriate person, and
- (b) any evidence submitted by or at the request of the appropriate person.

(4) The local authority must not seek any of the advice referred to in paragraphs (1)(b) to (j) if such advice has previously been provided for any purpose and the person providing that advice, the local authority and the appropriate person are satisfied that it is sufficient for the purposes of the detained person's 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 a detained person's EHC needs assessment

8.—(1) Where a local authority requests the co-operation of a body in securing a detained person's EHC needs assessment in accordance with section 71 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; or
- (b) the child's parent are absent from the area of the authority for a continuous period of not less than 4 weeks during that 6 week period.

Provision of advice, information and support to the appropriate person

9. When securing a detained person's EHC needs assessment the local authority must consider whether the child or the appropriate person requires any information, advice and support in order to enable them to take part effectively in the 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 a detained person's EHC needs assessment, a local authority decides that it is not necessary for special educational provision to be made for the detained person in accordance with an EHC plan, the notification given in accordance with section 71(10) of the Act 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 71(2) of the Act, or of the local authority becoming responsible for the child or young person in accordance with section 71(4)(b) or (c) of the Act.

(2) It must also notify —

- (a) the home commissioning body,
- (b) the detained person's health services commissioner,
- (c) the appropriate youth offending team, and
- (d) the person notified in accordance with regulation 4(2)(d) or (e).

(3) When notifying the appropriate 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 17; and
- (d) the availability of information and advice 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 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) exceptional personal circumstances affect the child or the child's parent, or the young person during that time period ; or
- (c) the child's parent is absent from the area of the authority for a continuous period of not less than 4 weeks during that time period.

EHC Plans

Preparation of EHC plans

11. When preparing a detained person's EHC Plan a local authority must—

- (a) take into account the evidence received when securing the detained person's EHC needs assessment; and
- (b) consider how best to achieve the outcomes to be sought for the detained person post-detention.

Form of EHC plan

12.—(1) When preparing an EHC plan a local authority must set out—

- (a) the views, interests and aspirations of the child and his parents or the young person (section A);
- (b) the detained person's special educational needs post-detention (section B);
- (c) the detained persons health care needs post-detention, which relate to their special educational needs (section C);
- (d) the detained person's social care needs post-detention, which relate to their special educational needs or to a disability (section D);
- (e) the outcomes sought for him or her post-detention (section E);
- (f) the special educational provision required by the detained person post-detention (section F);
- (g) any post-detention health care provision reasonably required by the learning difficulties or disabilities which result in the detained person having special educational needs (section G);
- (h)
 - (i) any post-detention social care provision which must be made for the detained person as a result of section 2 of the Chronically Sick and Disabled Persons Act 1970(a) (section H1);
 - (ii) any other post-detention social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having special educational needs (section H2);
- (i) the name of the school, post-16 institution or other institution to be attended post-detention by the detained person and the type of that institution or, where the name of a school or other institution is not specified in the EHC plan, the type of school or other institution to be attended by the detained person post-detention (section I); and
- (j) where any special educational provision is to be secured by a direct payment post-detention, the special educational needs and outcomes to be met by the direct payment (section J),

and each section must be separately identified.

(2) The health care provision specified in the EHC Plan in accordance with paragraph (1)(g) must be agreed by the home commissioning body.

(3) Where the detained person is in or beyond year 9, the EHC plan must include within the special educational provision, health care provision and social care provision specified, provision to assist the detained person in preparation for adulthood and independent living post-detention.

(4) The advice and information obtained in accordance with regulation 6(1) must be set out in appendices to the EHC plan (section K).

Timescales for EHC plans

13.—(1) When a local authority sends a draft plan to the appropriate person it must—

- (a) give them at least 15 days, beginning with the day on which the draft plan was served, in which to—
 - (i) make representations about the content of the draft plan, and to request that a particular school or other institution be named in the plan; and
 - (ii) require the local authority to arrange a meeting between them and an officer of the local authority at which the draft plan can be discussed; and
- (b) advise them where they can find information about the schools and colleges that are available for the child or young person to attend post-detention.

(2) A local authority must send the finalised EHC plan to—

(a) 1970 (c.44)

- (a) the appropriate person;
- (b) the person in charge of the relevant youth accommodation where the detained person is detained;
- (c) the appropriate youth offending team
- (d) the governing body, proprietor or principal of any school, or other institution named in the EHC plan; and
- (e) the home commissioning body,
- (f) the detained person's health services commissioner

as soon as practicable, and in any event within 20 weeks of the local authority receiving a request for an EHC needs assessment in accordance with section 71(2) of the Act, or of the local authority becoming responsible for the detained person in accordance with sections 71(4)(b) or (c) of the Act.

(3) The local authority need not comply with the time limit referred to in paragraph (2) if it is impractical for any of the reasons set out in regulation 10(4)(a) to (c)

Sending the finalised EHC plan

14.—(1) The finalised EHC plan must be in the form of the draft plan sent in accordance with regulation 12(1), or in a form modified in the light of the representations made in accordance with that regulation.

(2) When sending a copy of the finalised EHC plan to the appropriate person in accordance with section 72(1) of the Act, the local authority must notify them of—

- (a) their right to appeal matters within the EHC plan in accordance with section 73(2)(c) of the Act;
- (b) the time limits for doing so; and
- (c) the information concerning mediation, set out in regulation 17; and
- (d) the availability of information and advice relating to the special educational needs of children and young people.

Needs assessments which are not completed

15.—(1) A local authority, with the consent of the parent or young person, may treat anything done in relation to a detained person's EHC needs assessment as discharging any comparable requirement in relation to an EHC needs assessment.

(2) A local authority with the consent of the appropriate person may treat anything done in relation to an EHC needs assessment as discharging any comparable requirement in relation to a detained person's EHC needs assessment.

Restriction on disclosure of EHC plans

16.—(1) When a local authority becomes responsible for keeping an EHC plan for a detained person it must send a copy of the EHC plan to—

- (a) the person in charge of any relevant youth accommodation where the detained person is detained; and
- (b) the appropriate youth offending team.

(2) Subject to the provisions of the Act, these Regulations, an EHC plan in respect of a detained person shall not otherwise be disclosed without the detained person's consent except—

- (a) to persons to whom, in the opinion of the local authority concerned, it is necessary to disclose the whole or any part of the EHC plan in the interests of the detained person;
- (b) for the purposes of any appeal under the Act;

- (c) for the purposes of educational research which, in the opinion of the local authority, may advance the education or training of children or young persons with special educational needs, if, but only if, the person engaged in that research undertakes not to publish anything contained in, or derived from, an EHC plan otherwise than in a form which does not identify any individual including, in particular, the child concerned and the child's parent or the young person;
- (d) on the order of any court or for the purposes of any criminal proceedings;
- (e) for the purposes of any investigation under Part 3 of the Local Government Act 1974(a) (investigation of maladministration);
- (f) to the Secretary of State when he requests such disclosure for the purposes of deciding whether to—
 - (i) give directions, make determinations, or exercise any contractual rights under an Academy's funding agreement (for any purpose), or
 - (ii) make an order under section 496, 497 or 497A(b) of the Education Act 1996(c).
- (g) for the purposes of an assessment of the needs of the child or young person with respect to the provision of any statutory services for him or her being carried out by officers of an authority by virtue of arrangements made under section 5(5) of the Disabled Persons (Services, Consultation and Representation) Act 1986(d);
- (h) for the purposes of a local authority in the performance of its duties under sections 22(3)(a), 85(4)(a), 86(3)(a) and 87(3) of the Children Act 1989(e); and
- (i) to Her Majesty's Chief Inspector of Education, Children's Services and Skills(f), exercising the right to inspect and take copies of an EHC plan in accordance with section 10(1)(e) of the Education Act 2005(g) and section 140(2)(a) of the Education and Inspections Act 2006.

(3) A child may consent to the disclosure of an EHC plan for the purposes of this regulation if his or her age and understanding are sufficient to allow him or her to understand the nature of that consent.

(4) If a child does not have sufficient age or understanding to allow him or her to consent to such disclosure, the child's parent may consent on the child's behalf.

(5) The arrangements for keeping a detained person's EHC plan must be such that they ensure, so far as is reasonably practicable, that unauthorised persons do not have access to it.

(6) In this regulation, any reference to an EHC plan includes a reference to any representations, evidence, advice or information obtained in relation to an EHC plan.

PART 3

Mediation

Information to be included in notices sent by a local authority

17. Where a notice sent by a local authority must include the information set out in this regulation, that information is—

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- (a) 1974 (c.7)
 - (b) Section 497A was inserted into the 1996 Act by section 8 of the 1998 Act, and amended by section 60 of and Schedule 22 to the Education Act 2002 (c.32) and by section 59 of and Schedule 2 to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22)
 - (c) 1996 (c.56)
 - (d) 1986 (c.33)
 - (e) 1989 (c.41)
 - (f) Her Majesty's Chief Inspector of Education, Children's Services and Skills is appointed under the Chief Inspector of Education, Children's Services and Skills Order 2011 (S.I. 2011/2720) which is made under section 113(1) of the Education and Inspections Act 2006 (c.40)
 - (g) 2005 (c.18)

- (a) the requirement to obtain a certificate in accordance with section 55(4) or (5) of the Act (“a mediation certificate”) before any appeal can be made to the First-tier Tribunal^(a);
- (b) contact details for the mediation adviser that the child’s parent or young person should contact to obtain that certificate;
- (c) the timescales for requesting mediation;
- (d) the requirement to inform the local authority—
 - (i) if the appropriate person wishes to pursue mediation, and
 - (ii) the mediation issues^(b)
- (e) contact details for any person acting on behalf of the local authority whom the child’s parent or young person should contact if they wish to pursue mediation.

Requirement to consider mediation

18. Where an appropriate person is required to obtain a mediation certificate, he or she must contact the mediation adviser within 2 months after written notice of the local authority’s decision was sent, and inform the mediation adviser that he or she wishes to appeal and inform the mediation adviser whether they wish to pursue mediation.

Where the appropriate person does not wish to or fails to pursue mediation

19.—(1) Where an appropriate person who is required to obtain a mediation certificate informs the mediation adviser that he or she does not wish to pursue mediation, the mediation adviser must issue a mediation certificate under section 55(4) of the Act within 3 working days of being informed by the parent or young person.

(2) The mediation adviser may not issue such a certificate if the appropriate person did not contact the mediation adviser within 2 months of the date of the notice issued by the local authority.

(3) An appropriate person may seek leave to appeal to the First-tier Tribunal notwithstanding that he or she is required to obtain a mediation certificate and a mediation adviser has not issued a certificate to him or her, where the appropriate person has failed to comply with regulation 17 and the time for doing so has elapsed.

Mediation

20. Where the appropriate person has informed the mediation adviser that he or she wishes to pursue mediation, the local authority must arrange for mediation between it and the appropriate person, within [30] days from the date on which the mediation adviser was informed by the appropriate person that he or she wishes to pursue mediation.

Arrangements for mediation

21.—(1) The local authority must ensure that the mediation is attended by persons who have authority to resolve the mediation issues.

(2) The local authority must inform the appropriate person of the date and place of the mediation at least [5] working days prior to the mediation unless the appropriate person consents to this period of time being reduced.

Attendance at the mediation

22.—(1) The following persons may attend the mediation—

(a) The First-tier Tribunal was established under section 3 of the Tribunals, Courts and Enforcement Act 2007 (c.15)
 (b) Mediation issues has the same meaning as in section 53(1)(b) of the Act

- (a) the parties to the mediation;
- (b) any advocate or other supporter that the appropriate person wishes to attend the mediation;
- (c) where the child’s parent is a party to the mediation, the child (with the agreement of the parent, the mediator and the person in charge of the relevant youth accommodation where the child is detained);
- (d) where the young person’s alternative person^(a) is a party to the mediation, the young person (with the agreement of the alternative person and the mediator);
- (e) any other person, with the consent of all of the parties to the mediation, or where there is no such agreement, with the consent of the mediator.

(2) Where the child’s parent is a party to the mediation, the mediator must take reasonable steps to ascertain the views of the child about the mediation issues.

(3) Where the young person’s alternative person is a party to the mediation, the mediator must take reasonable steps to ascertain the views of the young person about the mediation issues.

Mediation certificate under section 55(5) of the Act

23.—(1) Where mediation is pursued before making an appeal to the First-tier Tribunal, the mediation adviser must issue a certificate under section 55(5) to the appropriate person within 3 working days of the conclusion of the mediation.

(2) Where mediation is pursued before making an appeal to the First-tier Tribunal and the local authority is unable to arrange for mediation within the period specified in regulation 20, the local authority must notify the mediation adviser of this fact as soon as possible after it realises that it is unable to arrange for mediation within that period.

(3) Where paragraph (2) applies, it is deemed that the child’s parent or the young person has participated in mediation, and the mediation adviser will issue a certificate under section 55(5) of the Act within 3 working days of being notified of this by the local authority, whether or not the appropriate person later participates in mediation.

Training, qualifications and experience of mediators

24. Mediators must have sufficient knowledge of the legislation relating to special educational needs, health and social care to be able to conduct the mediation.

Expenses

25.—(1) Subject to paragraph (2), the local authority when arranging the mediation] shall pay the following expenses in connection with the child’s parent attending mediation—

Table 1

<i>Item</i>	<i>Description</i>
Travel Costs	Standard class public transport fares for the parent and their child or the young person.
	A mileage rate of 25p per mile for travel by car or motorcycle.
	Taxi fares.
Repayment for loss of earnings	Loss of earnings up to £45.

(a) Alternative person has the meaning given in Regulation 64 of the 2014 Regulations.

Registered child or young person care expenses	Engagement of a registered child or adult carer at £5.35 per hour, per child or young person.
Overnight expenses	Expenses up to £81 per night for inner London or £71 per night for elsewhere or £21 per night if the stay is with family or friends.

(2) The local authority [when arranging the mediation] may require either or both of the following conditions before making payment of a claim for expenses under paragraph (1)—

- (a) payment is made with the prior agreement of the local authority;
- (b) payment is made upon receipt of satisfactory supporting evidence of the expenses claimed.

Steps to be taken by a local authority

26.—(1) This regulation applies where mediation has taken place and the parties to the mediation reach an agreement, to be recorded in writing (“the mediation agreement”).

(2) Where the mediation issues in the mediation agreement are those on which the appropriate person has a right to appeal to the First-tier Tribunal, the local authority shall comply with the time limits set out in regulation 28, as if the mediation agreement were an order of the First-tier Tribunal.

(3) Where the mediation agreement requires the local authority to do something in relation to which the appropriate person has no right of appeal to the First-tier Tribunal, the local authority must do that thing within two weeks of the date of the mediation agreement.

(4) The timescales referred to in paragraphs (2) and (3) do not apply where the parties to the mediation agree in writing to a different timescale.

PART 4

Appeals

27.—(1) Before determining any appeal, the First-tier Tribunal may, with the agreement of the parties, correct any deficiencies in the EHC Plan which relate to the special educational needs or special educational provision for the detained person.

(2) When determining an appeal the powers of the First-tier Tribunal include the power to—

- (a) dismiss the appeal;
- (b) order the local authority to arrange a detained persons EHC needs assessment of the detained person under section 71 where the local authority has refused to do so, where the appeal made under section 73(2)(a);
- (c) order the local authority to make and keep an EHC Plan where the local authority has refused to do so, where the appeal is made under section 73(2)(b);
- (d) refer the case back to the local authority for them to reconsider whether, having regard to any observations made by the First-tier Tribunal, it is necessary for the local authority to determine the special educational provision for the detained person, where the appeal is made under section 73(2)(b);
- (e) order the local authority to substitute in the EHC Plan the school or other institution or the type of school or other institution specified in the EHC plan, where the appeal concerns, the specific school or other institution, or the type of school or other institution named in the EHC Plan, where the appeal is made under section 73(2)(c)(i) or (ii);
- (f) where appropriate, when making an order in accordance with paragraph (e) this may include naming—

- (i) a special school or institution approved under section 41 where a mainstream school or mainstream post-16 institution is specified in the EHC Plan; or
- (ii) a mainstream school or mainstream post-16 institution where a special school or institution approved under section 41 is specified in the EHC Plan.

Compliance with the orders of the First-tier Tribunal

28.—(1) Subject to paragraph (3) or any direction made by the First-tier Tribunal, if the First-tier Tribunal makes an order requiring a local authority to take any action, the local authority shall take that action within the period specified in paragraph (2).

(2) Where the order—

- (a) requires a local authority to make a detained person’s EHC needs assessment, the local authority shall within 2 weeks of the order being made notify the appropriate person that it shall make the assessment and shall—
 - (i) where, following the assessment, the local authority decides that it is not necessary for special educational provision to be made for the child or the young person, in accordance with an EHC plan, notify the appropriate person of its decision, giving reasons for it as soon as practicable, and in any event within 10 weeks of the date of the First-tier Tribunal’s order; or
 - (ii) where, following the assessment, it decides that it is necessary for special educational provision to be made for the detained person, in accordance with an EHC plan, it must send the finalised plan to those specified in regulation 13(2) as soon as practicable and in any event within 14 weeks of the date of the First-tier Tribunal’s order;
- (b) requires a local authority to make and maintain an EHC Plan, the local authority shall—
 - (i) issue a draft EHC Plan within 5 weeks of the order being made;
 - (ii) send a copy of the finalised EHC plan to—
 - (aa) the appropriate person under regulation 13; and,
 - (bb) to the person in charge of the relevant youth accommodation where the detained person is being detained and
 - (cc) the appropriate youth offending team,
 within 11 weeks of the order being made.
- (c) refers the case back to the local authority for it to reconsider, the local authority shall do so within 2 weeks of the order being made and shall either send a copy of the draft EHC Plan as required under regulation 12 or give notice as required under regulation 5 of any decision not to maintain an EHC Plan;
- (d) requires the local authority to amend the name of the school or other institution or the type of school or other institution specified in the EHC plan, the local authority shall issue the amended EHC plan within 2 weeks of the order being made;

(3) The local authority need not comply with the time limits specified in paragraph (2)(b) and (c) if it is impractical to do so because—

- (a) exceptional personal circumstances affect the child or their parent, or the young person during that period of time;
- (b) the child’s parent is absent from the area of the authority for a continuous period of 2 weeks or more during that period of time; or
- (c) any of the circumstances referred to in regulation 10(4)(a) to (c) apply.

Unopposed appeals

29.—(1) This regulation applies where the detained person has appealed to the First-tier Tribunal and the local authority notifies the First-tier Tribunal that it will not oppose the appeal before it submits a response.

(2) The appeal is to be treated as if it was determined in favour of the appellant and the First-tier Tribunal is not required to make an order.

(3) Where the appeal concerned a request for a local authority to make an assessment under section 71 the local authority shall carry out that assessment within 4 weeks of the local authority's notification to the First-tier Tribunal.

(4) Where the appeal concerns the name of the school or other institution, or type of school or other institution to be named in the EHC plan, the local authority shall issue the amended EHC plan within 2 weeks of the local authority's notification to the First-tier Tribunal.

(5) Where the appeal concerns the refusal of the local authority to make an EHC Plan, then the local authority will arrange to make an EHC Plan within 5 weeks of the local authority's notification to the First-tier Tribunal.

(6) The local authority need not comply with the time limits specified in paragraphs (3), (4) or (5) if it is impractical to do so because—

- (a) exceptional personal circumstances affect the child or their parent or the young person during the relevant period;
- (b) the child's parent is absent from the area of the local authority for a continuous period of not less than 2 weeks during the relevant period; or
- (c) any of the circumstances referred to in regulation 10(4)(a) to (c) apply.

[A Schedule in respect of 'capacity' as defined under section 80(5) of the Act, will be inserted to explain how the Regulations will apply where either the young person or the parent has an alternative person.]