

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Assessment

Section 36: Assessment of education, health and care needs

210. This section gives a child's parent, a young person or a person acting on behalf of a school or post-16 institution the right to request a statutory assessment. It requires local authorities to consider whether an assessment is necessary for a child or young person where such a request has been made or where the authority has become responsible for the child or young person in some other way, such as by someone else bringing the child or young person to the authority's attention. The section sets out the local authority's duties when making their decision about whether to carry out an assessment and in carrying out any subsequent assessment of the child or young person. In making a decision on whether an assessment is necessary, the local authority must consult with the child's parents or the young person, to ensure they are involved in the process from the outset. If the local authority decides not to carry out an assessment they must inform the child's parents or the young person of their decision and their reasons for it. If they intend to carry out an education, health and care needs assessment they must inform the child's parents or the young person and make sure that they are aware of their rights to have their own views considered by the local authority (either orally or in writing).
211. The local authority must carry out an assessment if, after taking account of any views expressed and evidence submitted, it thinks that the child or young person has or may have special educational needs and that it may be necessary for special educational provision to be made for a child or young person through an EHC plan. The parent or young person should be informed of the outcome of the assessment and whether the local authority intends to prepare an EHC plan. Further detail about the assessment process will be set out in regulations, including, for example, how assessments are conducted and advice obtained, how parents and young people can express their views and submit evidence, and about the provision of information, advice and support in connection with an assessment.
212. [Section 51](#) provides that if, having received and considered a request for an assessment, a local authority decides not to carry one out, the child's parents or the young person may appeal against that decision to the First-tier Tribunal.
213. The provision in section 36(10) is intended to make clear that when a local authority is deciding whether to carry out an assessment for a young person aged 19 or over, it must consider whether the young person needs more time, in comparison to the majority of people their age who do not have special educational needs, to complete their education or training. Young people may have an EHC plan up to age 25 but, as young people

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

will be ready to leave education or training and make the transition into adult life at differing ages, in many cases an EHC plan will end sooner than that.

214. This section replaces, in England, sections 323 and 331 of the Education Act 1996 and sections 139A to 139C of the Learning and Skills Act 2000.