

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Detained Persons

Section 71: Assessment of post-detention education, health and care needs of detained persons

310. This section mirrors section 36 and allows the detained young person or a detained child's parent, or the person in charge of the secure accommodation to request an EHC needs assessment. It requires the home local authority to consider whether an assessment is necessary where such a request has been made or where someone else has brought the child or young person to the authority's attention. This 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 and the person in charge of the secure accommodation in which the child or young person is detained.
311. If the local authority decides not to carry out an assessment they must inform the child's parents or the young person and the person in charge of the secure accommodation in which the child or young person is detained with their reasons for the decision. 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 the person in charge of the secure accommodation in which the child or young person is detained to make sure that they are aware of their rights to have their own views considered by the local authority (either orally or in writing).
312. 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 them through an EHC plan on their release from detention. The parent or young person and the person in charge of the secure accommodation in which the child or young person is detained should be informed of the outcome of the assessment and whether the local authority intends to prepare an EHC Plan.
313. Regulations may specify how assessments for EHC plans will apply in custody.