



# Children and Families Act 2014

## 2014 CHAPTER 6

### PART 3

#### CHILDREN AND YOUNG PEOPLE IN ENGLAND WITH SPECIAL EDUCATIONAL NEEDS OR DISABILITIES

##### *Detained persons*

#### **73 EHC plans for certain detained persons: appeals and mediation**

- (1) An appropriate person in relation to a detained person may appeal to the First-tier Tribunal against the matters set out in subsection (2), subject to section 55 (as applied by this section).
- (2) The matters are—
  - (a) a decision of the home authority not to secure a detained person's EHC needs assessment for the detained person;
  - (b) a decision of the home authority, following a detained person's EHC needs assessment, that it is not necessary for special educational provision to be made for the detained person in accordance with an EHC plan on release from detention;
  - (c) where an EHC plan is secured for the detained person—
    - (i) the school or other institution named in the plan, or the type of school or other institution named in the plan;
    - (ii) if no school or other institution is named in the plan, that fact.
- (3) The appropriate person may appeal to the First-tier Tribunal under subsection (2)(c) only when an EHC plan is first finalised for the detained person in accordance with section 72.
- (4) Regulations may make provision about appeals to the First-tier Tribunal in respect of detained persons' EHC needs assessments and EHC plans secured under section 72, in particular about—
  - (a) making and determining appeals;

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*Status: This is the original version (as it was originally enacted).*

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- (b) the powers of the First-tier Tribunal on determining an appeal;
  - (c) unopposed appeals.
- (5) A person commits an offence if without reasonable excuse that person fails to comply with any requirement—
- (a) in respect of the discovery or inspection of documents, or
  - (b) to attend to give evidence and produce documents,
- where that requirement is imposed by Tribunal Procedure Rules in relation to an appeal under this section.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Section 55(2) to (5) apply where an appropriate person intends to appeal to the First-tier Tribunal under this section as they apply where a child’s parent or young person intends to appeal under section 51, with the following modifications—
- (a) references to the child’s parent or young person are to be read as references to the appropriate person, and
  - (b) references to mediation under section 53 or 54 are to be read as references to mediation with the home authority.
- (8) Where, by virtue of subsection (7), the appropriate person has informed the mediation adviser that he or she wishes to pursue mediation with the home authority—
- (a) the adviser must notify the authority, and
  - (b) the authority must—
    - (i) arrange for mediation between it and the appropriate person,
    - (ii) ensure that the mediation is conducted by an independent person, and
    - (iii) participate in the mediation.
- For this purpose a person is not independent if he or she is employed by a local authority in England.
- (9) Regulations under section 56 may make provision for the purposes of subsections (7) and (8) of this section, and accordingly section 56 has effect for those purposes with the following modifications—
- (a) the references in subsection (1) to commissioning bodies are to be ignored;
  - (b) the reference in subsection (1)(e) to a child’s parent is to be read as a reference to the parent of a detained person who is a child;
  - (c) the reference in subsection (1)(f) to the child’s parent or young person is to be read as a reference to the appropriate person;
  - (d) in subsection (3), paragraphs (b) and (c) are to be ignored;
  - (e) subsection (4) is to be ignored.