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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations extend the powers of the First-tier Tribunal (Special Educational Needs and Disability) so that, when it is determining an appeal on the matters set out in sections 51(2)(b), (c), (d), (e), or (f) of the Children and Families Act 2014 (“the Act”), it may make non-binding recommendations in respect of certain types of health and social care matters within an Education, Health and Care (EHC) plan, against which no appeal may be brought under the Act.

Regulation 3 sets out transitional provisions and provides that these Regulations apply to an appeal against a local authority decision made on or after 3rd April 2018, or an appeal relating to an EHC plan made or amended on or after 3rd April 2018.

Regulation 4 sets out the recommendations that the First-tier Tribunal may make in respect of the health and social care needs specified in the child or young person's EHC plan.

Regulation 5 sets out the recommendations that the First-tier Tribunal may make in respect of the health and social care provision that is specified in the child or young person's EHC plan.

Regulation 6(1) provides that where the First-tier Tribunal makes a recommendation in respect of health care needs or provision, it must send the responsible commissioning body a copy of the recommendation.

Regulation 6(2) provides that when it is sending a copy of the recommendation, the First-tier Tribunal may also send the responsible commissioning body a copy of the decision which disposes of the appeal proceedings brought under section 51(1) of the Act.

Regulation 6(3) requires responsible commissioning bodies to respond to recommendations in respect of health care needs and health care provision.

Regulation 6(6) requires the local authority that maintains the EHC plan to send a copy of the responsible commissioning body's response to the Secretary of State.

Regulation 7(1) requires local authorities to respond to recommendations in respect of social care needs and social care provision. Regulation 7(4) also requires the local authority to send a copy of its response to the Secretary of State.

Regulation 8 provides that when a local authority notifies a child's parent or a young person of a decision in accordance with regulations 10(3), 14(2), 20(11), 21(10), 22(5), 25(2) or 31(3) of the Special Educational Needs and Disability Regulations 2014, the local authority must also notify the child's parent or the young person of the First-tier Tribunal's power to make recommendations under these Regulations.

A full impact assessment has not been produced for this instrument. No, or no significant, impact on the private or voluntary sectors is foreseen. The impact on local authorities and clinical commissioning groups will be assessed as part of the evaluation of a two-year trial of these regulations. For the duration of the trial, the Department for Education will provide funding to contribute to local authority and clinical commissioning group expenses in relation to their new duties.

An Explanatory Memorandum is available alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

**Changes to legislation:**

There are currently no known outstanding effects for the The Special Educational Needs and Disability (First-tier Tribunal Recommendations Power) Regulations 2017.