STATUTORY INSTRUMENTS

2015 No. 358

EDUCATION, ENGLAND

The Special Educational Needs and Disability (First-tier Tribunal Recommendation Power) (Pilot) Regulations 2015

Made - - - -	*24th February 2015*
Laid before Parliament	*26th February 2015*
Coming into force - -	*1st April 2015*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 51(4)(c) and (5) and 135(2) and (3) of the Children and Families Act 2014(**1**).

Citation and commencement

1. These Regulations may be cited as the Special Educational Needs and Disability (First-tier Tribunal Recommendation Power) (Pilot) Regulations 2015 and come into force on 1st April 2015.

Interpretation

2. In these Regulations—

"the 2014 Regulations" means the Special Educational Needs and Disability Regulations 2014(**2**);

"the Act" means the Children and Families Act 2014;

"pilot local authority" means a local authority listed in the Schedule;

"responsible commissioning body" means in relation to any specified health care provision, the body (or each body) that is under a duty to arrange health care provision of that kind in respect of the child or young person, or would be under such a duty if the health care needs or health care provision recommended by the First-tier Tribunal were specified in the child or young person's EHC plan.

(**1**) 2014 c.6.
(**2**) S.I. 2014/1530, as amended by S.I. 2014/2096.

Power to make recommendations in respect of health and social care needs

3.—(1) When an appeal under section 51(2)(b) of the Act against a pilot local authority is to be determined in favour of the child's parent or the young person, the First-tier Tribunal has the power to recommend that when the EHC plan is made—

(a) health care needs or health care needs of a particular kind which relate to the child or young person's special educational needs are specified in the EHC plan in accordance with regulation 12(1)(c) of the 2014 Regulations;

(b) social care needs or social care needs of a particular kind which relate to the child or young person's special educational needs or to a disability are specified in the EHC plan in accordance with regulation 12(1)(d) of the 2014 Regulations.

(2) When an appeal under section 51(2)(c), (d), (e) or (f) of the Act against a pilot local authority is to be determined, the First-tier Tribunal has the power to recommend that—

(a) the health care needs specified in the EHC plan in accordance with regulation 12(1)(c) of the 2014 Regulations are amended;

(b) the social care needs specified in the EHC plan in accordance with regulation 12(1)(d) of the 2014 Regulations are amended;

(c) health care needs or health care needs of a particular kind are specified in the EHC plan in accordance with regulation 12(1)(c) of the 2014 Regulations where those needs have not been specified in the plan;

(d) social care needs or social care needs of a particular kind are specified in the EHC plan in accordance with regulation 12(1)(d) of the 2014 Regulations where those needs have not been specified in the plan.

Power to make recommendations in respect of health and social care provision

4.—(1) When an appeal under section 51(2)(b) of the Act against a pilot local authority is to be determined in favour of the child's parent or the young person, the First-tier Tribunal has the power to recommend that when the EHC plan is made—

(a) health care provision or health care provision of a particular kind is specified in the EHC plan in accordance with regulation 12(1)(g) of the 2014 Regulations;

(b) social care provision or social care provision of a particular kind is specified in the EHC plan in accordance with regulation 12(1)(h) of the 2014 Regulations.

(2) When an appeal under section 51(2)(c), (d), (e) or (f) of the Act against a pilot local authority is to be determined, the First-tier Tribunal has the power to recommend that—

(a) the health care provision specified in the EHC plan in accordance with regulation 12(1)(g) of the 2014 Regulations is amended;

(b) the social care provision specified in the EHC plan in accordance with regulation 12(1)(h) of the 2014 Regulations is amended;

(c) health care provision or health care provision of a particular kind is specified in the EHC plan in accordance with regulation 12(1)(g) of the 2014 Regulations where that provision has not been specified in the EHC plan;

(d) social care provision or social care provision of a particular kind is specified in the EHC plan in accordance with regulation 12(1)(h) of the 2014 Regulations where that provision has not been specified in the EHC plan.

Responding to health care recommendations

5.—(1) When the First-tier Tribunal makes a recommendation in respect of health care needs or health care provision, it must send a copy of the recommendation to the responsible commissioning body.

(2) When sending a copy of a recommendation, the First-tier Tribunal may also send a copy of the decision which disposes of the appeal brought under section 51(2) of the Act to the responsible commissioning body.

(3) The responsible commissioning body must respond within 5 weeks from the date of the recommendation to—

(a) the child's parent or the young person, and

(b) the local authority that maintains the EHC plan.

(4) The time limit specified in paragraph (3) does not apply where the First-tier Tribunal directs a different time limit for the responsible commissioning body's response.

(5) A response under paragraph (3) must—

(a) be in writing,

(b) state what steps, if any, the responsible commissioning body has decided to take following its consideration of the recommendation, and

(c) give reasons for any decision not to follow the recommendation, or any part of it.

Responding to social care recommendations

6.—(1) When the First-tier Tribunal makes a recommendation in respect of social care needs or social care provision, the pilot local authority must respond to the child's parent or the young person within 5 weeks from the date of the recommendation.

(2) The time limit specified in paragraph (1) does not apply where the First-tier Tribunal directs a different time limit for the local authority's response.

(3) A response under paragraph (1) must—

(a) be in writing,

(b) state what steps, if any, the local authority has decided to take following its consideration of the recommendation, and

(c) give reasons for any decision not to follow the recommendation, or any part of it.

Modification of the Special Educational Needs and Disability Regulations 2014 – notification of the First-tier Tribunal's power to make recommendations

7. Regulations 10(3), 14(2), 20(11), 21(10), 22(5), 25(2) and 31(3) of the 2014 Regulations apply to pilot local authorities as if after paragraph (d) in each of those provisions there were inserted—

"; and

(e) the First-tier Tribunal's power to make recommendations under the Special Educational Needs and Disability (First-tier Tribunal Recommendation Power) (Pilot) Regulations 2015.".