

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Appeals, mediation and dispute resolution

Section 51: Appeals

259. This section sets out the decisions taken by a local authority in relation to assessments and EHC plans against which a parent or young person can appeal. These are set out in *subsection (2)*.
260. This section extends the current right of appeal to the First-tier Tribunal to young people aged up to 25 and, in the case of young people in school, transfers the right from the parent to the young person. The section also extends the right of appeal to the Tribunal to the parents of children under 2 years of age.
261. An appeal can only be made after mediation has been considered and, where the parent or young person has decided to take part in mediation, this has taken place in accordance with section 52. The Secretary of State may make regulations in relation to appeals. The Secretary of State's powers include the power to make regulations giving the Tribunal the power to make recommendations about the health and social care elements of EHC plans in pilot areas (see section 51(4)(a)).
262. *Subsection (5)* recreates an offence, carried over from the Education Act 1996. A person commits an offence if, without reasonable excuse, they fail to comply with any requirement to provide or allow for inspection of documents, or attend a Tribunal hearing to give evidence or produce documents, where that requirement is imposed by the Tribunal Procedure Rules in relation to an SEN appeal. Under *subsection (6)* a person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale. Under the Tribunal Procedure Rules nobody may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law.
263. This section replaces, in England, sections 325, 326, 328, 328A, 329 and 336(5A) and (6) of, and paragraphs 8 and 11 of Schedule 27 to, the Education Act 1996.