

# ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) ACT 2018

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS OF THE ACT

#### **Part 2 – Additional Learning Needs**

##### *Chapter 1 – Key Terms, Code and Participation*

#### **Participation, United Nations conventions and access to information**

##### *Section 6 - Duty to involve and support children, their parents and young people*

22. **Section 6** seeks to ensure that local authorities, governing bodies and others exercising functions under Part 2 place children, their parents and young people at the centre of decisions taken under the Act which directly affect them, and so enable them to participate in a fully informed way. It does this by requiring persons exercising functions under Part 2 in relation to a child or young person to have regard to the matters listed. In practice, this means that, for example, if a governing body is preparing an IDP for a child under section 14, it would need to provide information and support to the child and their parent to enable them to participate in decisions such as what ALP is called for by the child's ALN, give them an opportunity to do so and take into account their views, wishes and feelings.

##### *Sections 7 and 8 – Duties to have regard to the United Nations Convention on the Rights of the Child and the United Nations Convention of the Rights of Persons with Disabilities*

23. **Sections 7** and **8** place duties on local authorities and NHS bodies (that is, Local Health Boards and NHS trusts) exercising functions under Part 2 to have due regard to the United Nations Convention on the Rights of the Child (section 7) and to the United Nations Convention on the Rights of Persons with Disabilities (section 8). See subsection (2) of each section for how each Convention is to be treated as having effect for these purposes.
24. These duties do not require local authorities and NHS bodies to give specific consideration to the Conventions on each occasion that a function is exercised (see sections 7(3) and 8(3)) and the code may make provision about what is required in order to discharge the duty in which case, the duty is to be interpreted accordingly (sections 7(4) and 8(4)).

##### *Section 9 - Advice and information*

25. **Section 9** requires local authorities to ensure that those who have an interest in the operation of the new ALN system (including children, children's parents and young people) are provided with information and advice about ALN and the system provided for by the Act. In doing so local authorities must have regard to the principle that

*These notes refer to the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (c.2) which received Royal Assent on 24 January 2018*

the information and advice is provided in an impartial manner. Local authorities must also make the availability of information and advice services, dispute avoidance and resolution services, and independent advocacy services, known to schools and others. In turn, governing bodies, when informed of these matters, have a duty to make them known to their pupils, pupils' parents and case friends or their students (subsections (4) and (5)). The ALN code may impose further requirements related to advice and information (see section 4(5)).