

ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS OF THE ACT

Part 2 – Additional Learning Needs

Chapter 2 – Individual Development Plans

Preparing and maintaining individual development plans

Section 14 - Duties to prepare and maintain plans: local authorities

47. Where a local authority decides that a child or young person has ALN, section 14 sets out the circumstances where it is required to prepare and maintain an IDP and secure the ALP set out in that IDP; or, if the child or young person attends, or will attend, a maintained school, the local authority may prepare an IDP and direct the governing body of the school to maintain the plan; or direct the governing body of the school to prepare and maintain a plan.
48. These duties apply in relation to children, young people who are registered pupils at maintained schools or enrolled students at FEIs, and to other young people where the local authority decides it is necessary to prepare and maintain a plan under this section to meet the person's reasonable needs for education or training. Consideration of where it is so 'necessary' is to be undertaken in accordance with regulations made by the Welsh Ministers under section 46.
49. The section also sets out matters which may need to be set out in an IDP prepared or maintained by a local authority, namely:
 - a. the local authority must consider whether any ALP should be provided in Welsh and where it decides that is the case, so specify in the IDP (subsection (5)); and
 - b. if the local authority is satisfied that the reasonable needs of a child or young person for ALP cannot be met unless it also secures a place at a particular school or institution (provided the person or body responsible for admissions to the institution consents, unless it is a maintained school in Wales); and/or board and lodging, that 'other provision' must be described in the plan and must be secured by the local authority. Where this applies, the local authority is unable to direct the governing body of a maintained school to prepare and/or maintain the IDP. (subsections (6) – (9)).
50. See sections 35 (and the related regulation making power in section 37) and 43 for other situations in which a local authority is, in effect, subject to the duty in this section to maintain an IDP, for example where a child with an IDP maintained by another local authority moves into its area.
51. Where the local authority maintains an IDP it must secure the ALP and any other provision described in the plan and take all reasonable steps to secure provision in

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

Welsh where that is specified (subsection (10)). The duty to secure ALP in Welsh is qualified in this way as there may be circumstances where it cannot reasonably be provided in Welsh, for example in the case of specialised services or treatments where it is not possible to obtain a Welsh speaking practitioner despite attempts to find one.

52. The duties in this section apply in respect of children or young persons for whom the local authority is responsible, namely those in its area (including if they attend school in a different area), except for children who are looked after for the purposes of this Act (see the definition in section 15 and the duties in sections 17 and 18 which apply instead). See section 31 for the circumstances in which the duties in this section cease to apply. Also, see section 562 of the Education Act 1996 and section 44 for the effect on these duties where the person to whom they relate is subject to a detention order.