

# **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 2 – Individual Development Plans**

#### **Review of plans**

#### ***Section 23 - Review and revision of individual development plans***

67. **Section 23** provides for reviews of an IDP for a child who is not looked after, unless the child is in the area of a local authority in England and attending a maintained school in Wales, or a young person. A review must take place before the end of each review period. The first review period is a year starting with the date on which a copy of an IDP is given under section 22. Usually, subsequent review periods are a year starting with the date in the previous review period when (a) a copy of a revised plan was given in relation to that previous review period, or, (b) if the plan was not revised during the previous review period, notice of a decision not to revise the plan was given in relation to that review period. The result is that the plan should be reviewed at least once in any 12 month period. There is also provision for cases where neither a revised plan nor notice that no revision is to be made is given during the previous review period (subsection (4)). Subsection (6) provides for the duty to be treated as met in situations where a body other than that which is maintaining it, in effect, reviews it. This is to minimise the scope for parallel reviews for example, so that the governing body of a school is not obliged to review a plan at a time when the end of the review period is approaching but the Tribunal has just considered what should be in the plan and ordered the local authority to revise it accordingly.
68. An IDP must also be reviewed at the request of a child or a child's parent, or a young person unless considered unnecessary by the local authority or governing body (subsection (8)), for example where there have clearly been no material changes since the last time that the IDP was reviewed; and at the request of an NHS body required to secure provision under section 20 (subsection (7)). This section also permits the plan to be reviewed and then revised at any time (subsection (9)). This will enable prompt review of the IDP when circumstances change or in accordance with review dates set out in the IDP. If the IDP is revised under any provision of Part 2 or legislation made under it, a copy of the revised plan must be provided to the child and their parent, or the young person (subsection (11)). If it is decided not to revise the IDP following a review under any provision of Part 2 or legislation made under it, the child, their parent, or the young person must be notified of the decision and reasons for it (subsection (10)). See sections 84 and 85 in respect of a review request by a child and the requirements to give copies of the plan to, and to notify, a child.
69. **Section 24** deals with reviews for looked after children not covered by this section (subsection (12)).

***Section 24 - Review and revision of individual development plans for looked after children***

70. **Section 24** makes provision in relation to looked after children equivalent to that in section 23, unless the looked after child is in the area of a local authority in England and attending a maintained school in Wales, in which case, the governing body has review functions under section 23.
71. In addition to the requirements of this section, a local authority looking after a child has other functions related to the review of the child's IDP. These are the functions in relation to the review of a care and support plan under and by virtue of the Social Services and Well-being (Wales) Act 2014 (see section 83 of that Act as amended by section 16 of the Act). Since any IDP for a looked after child maintained under section 19 must be incorporated into any personal education plan, which in turn is part of the care and support plan, those functions related to reviews cover the IDP.

***Section 25 - Relationship of individual development plans to other similar documents***

72. **Section 25** enables alignment of the processes of preparing, reviewing and revising IDPs for a child or young person with the preparation, review and revision of other documents for that child or young person, such as any health and social care plans.