

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

ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS OF THE ACT

Part 2 – Additional Learning Needs

Chapter 4 – Avoiding and Resolving Disagreements

Appeals and applications to the Tribunal

Section 70 - Appeal and application rights

156. **Section 70** provides children, parents of children and young people with rights of appeal to the Tribunal against decisions of governing bodies of FEIs and decisions of local authorities and in relation to IDPs prepared or maintained by such a body or authority or revised by an authority under section 27(6). It does not allow for appeals to be brought against actions of governing bodies of maintained schools, but their actions can be referred to local authorities for reconsideration (see sections 26, 27 and 32) and there are appeal rights against the authorities' actions in reconsidering matters (as set out in subsection (2)).
157. Subsection (2) sets out the matters against which a child, child's parent or young person may appeal to the Tribunal, for example about a decision that a child or young person has or does not have ALN.
158. By virtue of section 85, in particular circumstances, case friends can be appointed on behalf of a child who does not have sufficient understanding and intelligence to understand some of the matters covered by this Act and they can exercise specific rights of the child under the Act, including the right to bring an appeal under section 70(2). The child's lack of understanding could be because of their young age, or for other reasons, such as a learning disability. Section 84 provides for who determines whether a child lacks understanding.
159. This section also enables a child or a child's parent to apply to the Tribunal for a declaration that the child either does or does not have the capacity (level of understanding necessary) to make decisions or understand information in relation to their ALN (subsection (3)).