



# Additional Learning Needs and Education Tribunal (Wales) Act 2018

**2018 anaw 2**

## **PART 2**

### **ADDITIONAL LEARNING NEEDS**

#### **CHAPTER 1**

##### **KEY TERMS, CODE AND PARTICIPATION**

###### *Code of practice*

#### **4 Additional learning needs code**

- (1) The Welsh Ministers must issue, and may from time to time revise, a code on additional learning needs (“the code”).
- (2) The code may include guidance about the exercise of functions under this Part and about any other matter connected with identifying and meeting additional learning needs.
- (3) The following persons must, when exercising functions under this Part, have regard to any relevant guidance contained in the code—
  - (a) a local authority in Wales or England;
  - (b) the governing body of a maintained school in Wales or England;
  - (c) the governing body of an institution in the further education sector in Wales or England;
  - (d) the proprietor of an Academy;
  - (e) a youth offending team for an area in Wales or England;
  - (f) a person in charge of relevant youth accommodation in Wales or England;
  - (g) a Local Health Board;

---

*Status: Point in time view as at 01/01/2022.*

**Changes to legislation:** *Additional Learning Needs and Education Tribunal (Wales) Act 2018, Cross Heading: Code of practice is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

- (h) an NHS trust;
  - (i) the National Health Service Commissioning Board;
  - (j) a clinical commissioning group;
  - (k) an NHS foundation trust;
  - (l) a Special Health Authority.
- (4) For provision about local authorities requiring certain providers of nursery education to have regard to guidance contained in the code, see section 153 of the Education Act 2002 (c. 32).
- (5) The code may impose requirements—
- (a) on a local authority in respect of arrangements it must make under sections 9 (advice and information), 68 (avoidance and resolution of disagreements) and 69 (independent advocacy services);
  - (b) on a governing body of a maintained school in Wales or an institution in the further education sector in Wales or a local authority in respect of—
    - (i) decisions as to whether a child or young person has additional learning needs,
    - (ii) the preparation, content, form, review and revision of individual development plans, or
    - (iii) ceasing to maintain individual development plans;
  - (c) on a governing body of a maintained school in Wales or an institution in the further education sector in Wales in respect of the provision of information for the purposes of this Part.
- (6) The code must include the following requirements on governing bodies and local authorities—
- (a) a requirement under subsection (5)(b)(i) for the notification of a decision that a child or young person does not have additional learning needs to be given in accordance with section 11(4), 13(3), 18(3) or 40(4) before the end of a period of time specified in the code, subject to any exceptions to the requirement specified in the code;
  - (b) a requirement under subsection (5)(b)(ii) to prepare an individual development plan and give a copy of it in accordance with section 22 or 40(5) before the end of a period of time specified in the code, subject to any exceptions to the requirement specified in the code;
  - (c) a requirement under subsection (5)(b)(ii) to use the appropriate standard form set out in the code for an individual development plan; and the code must include one or more standard forms for this purpose.
- (7) The code may make—
- (a) different provision for different purposes or cases, and
  - (b) transitory, transitional or saving provision,
- in relation to a requirement imposed under subsection (5) or provision made under section 7(4) or 8(4).
- (8) The duty imposed by subsection (3) and a duty imposed under subsection (5) also apply to a person exercising a function for the purpose of the discharge of functions under this Part by the persons mentioned in subsection (3).
- (9) The power to impose requirements under subsection (5)(c) does not include the power to impose requirements in respect of the disclosure of personal data to a person who

*Status: Point in time view as at 01/01/2022.*

*Changes to legislation: Additional Learning Needs and Education Tribunal (Wales) Act 2018, Cross Heading: Code of practice is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

is not the data subject, except for cases where the person is the parent of a child and the data subject is the child;<sup>F1</sup>...

[<sup>F2</sup>(9A) In subsection (9)—

“data subject” (“*testun y data*”) has the meaning given by section 3(5) of the Data Protection Act 2018;

“personal data” (“*data personol*”) has the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).]

(10) The Education Tribunal for Wales must have regard to any provision of the code that appears to it to be relevant to a question arising on an appeal under this Part.

(11) The Welsh Ministers must publish the code for the time being in force on their website.

#### Textual Amendments

**F1** Words in s. 4(9) omitted (25.5.2018) by virtue of [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 226\(2\)\(a\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), reg. 2(1)(g)

**F2** S. 4(9A) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 226\(2\)\(b\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), reg. 2(1)(g)

#### Commencement Information

**I1** S. 4 in force at 2.11.2020 for specified purposes by [S.I. 2020/1182](#), [reg. 3\(2\)\(a\)](#)

**I2** S. 4 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), [arts. 3, 4](#) (as amended by [S.I. 2021/938](#), [art. 2\(3\)](#))

**I3** S. 4 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), [arts. 6, 7](#) (as amended by [S.I. 2021/938](#), [art. 2\(4\)\(5\)](#))

**I4** S. 4 in force at 1.1.2022 for specified purposes by [S.I. 2021/1243](#), [art. 3\(a\)](#) (with [arts. 4-23](#)) (as amended by [S.I. 2021/1428](#), [art. 2](#); (10.6.2022) by [S.I. 2022/663](#), [art. 2](#) and (21.8.2023) by [S.I. 2023/932](#), [art. 2](#))

**I5** S. 4 in force at 1.1.2022 for specified purposes by [S.I. 2021/1244](#), [art. 3\(a\)](#) (with [arts. 4-21](#)) (as amended by [S.I. 2021/1428](#), [art. 3](#); (10.6.2022) by [S.I. 2022/663](#), [art. 3](#) and (21.8.2023) by [S.I. 2023/932](#), [art. 3](#))

**I6** S. 4 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), [arts. 3\(a\), 4](#) (with [art. 1\(4\)](#))

## 5 Procedure for making the code

(1) Before issuing or revising a code under section 4, the Welsh Ministers must consult the following persons on a draft of the code—

- (a) each local authority;
- (b) the governing body of each maintained school in Wales;
- (c) the governing body of each institution in the further education sector in Wales;
- (d) Her Majesty's Chief Inspector of Education and Training in Wales;
- (e) the Children's Commissioner for Wales;
- (f) the Welsh Language Commissioner;
- (g) the relevant committee of the National Assembly for Wales with remit for the education of children and young persons;
- (h) any other person the Welsh Ministers consider appropriate.

(2) If the Welsh Ministers wish to proceed with the draft (with or without modifications) they must lay a copy of the draft before the National Assembly for Wales.

---

**Status:** Point in time view as at 01/01/2022.

**Changes to legislation:** Additional Learning Needs and Education Tribunal (Wales) Act 2018, Cross Heading: Code of practice is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

---

- (3) The Welsh Ministers must not issue a code unless a draft of it is approved by a resolution of the National Assembly for Wales.
- (4) If the National Assembly for Wales resolves to approve a draft of the code—
  - (a) the Welsh Ministers must issue the code in the form of the draft, and
  - (b) the code comes into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (5) An order under subsection (4)(b) may—
  - (a) appoint different days for different purposes;
  - (b) make transitory, transitional or saving provision in connection with the coming into force of a provision in the code.
- (6) References in this section to a code include a revised code.
- (7) The requirement to consult imposed by subsection (1) may be satisfied by consultation undertaken before the coming into force of this Part.

---

**Commencement Information**

**I7** S. 5 in force at 2.11.2020 by [S.I. 2020/1182](#), [reg. 2\(a\)](#)

**Status:**

Point in time view as at 01/01/2022.

**Changes to legislation:**

Additional Learning Needs and Education Tribunal (Wales) Act 2018, Cross Heading: Code of practice is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.