



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

**2018 anaw 2**

## **PART 2**

### **ADDITIONAL LEARNING NEEDS**

#### **CHAPTER 2**

##### **INDIVIDUAL DEVELOPMENT PLANS**

*Additional learning provision for looked after children*

#### **15 Key terms**

- (1) A child is looked after by a local authority if he or she—
  - (a) is not over compulsory school age and is looked after by a local authority for the purposes of Part 6 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (“the 2014 Act”), and
  - (b) is not a detained person.
- (2) Regulations may prescribe categories of looked after child who are not to be treated as looked after by a local authority for the purposes of this Act.
- (3) “Independent reviewing officer” means the officer appointed under section 99 of the 2014 Act for a child's case.
- (4) “Personal education plan” means the plan that is included in the care and support plan maintained for a looked after child under section 83(2A) of the 2014 Act.
- (5) This section applies for the purposes of this Act.

*Status: Point in time view as at 10/06/2022.*

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### Commencement Information

**II** S. 15 in force at 2.11.2020 by [S.I. 2020/1182](#), [reg. 2\(b\)](#)

## 16 Amendments to the Social Services and Well-being (Wales) Act 2014

- (1) Section 83 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (care and support plans) is amended as follows.
- (2) After subsection (2) insert—
  - “(2A) A care and support plan for a child must include a record of the arrangements made to meet the child’s needs in relation to education and training (a “personal education plan”).
  - (2B) But subsection (2A) does not apply to a child if he or she is within a category of looked after child prescribed in regulations, for whom no personal education plan is to be prepared.
  - (2C) If—
    - (a) a child has additional learning needs, and
    - (b) the child’s care and support plan includes a personal education plan, any individual development plan maintained for the child under section 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 must be incorporated within the personal education plan.
  - (2D) For the purposes of subsection (2C)—
    - (a) a “child” means a person not over compulsory school age (within the meaning given by section 8 of the Education Act 1996 (c. 56));
    - (b) “additional learning needs” has the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”
- (3) In subsection (3), for “under review the plans that it maintains under this section” substitute “a care and support plan under review”.
- (4) In subsection (4), for “plan”, the first time it appears, substitute “care and support plan”.
- (5) In subsection (5)—
  - (a) at the beginning, insert “Subject to the provisions of Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018,”;
  - (b) in paragraph (a), for “plans under this section” substitute “care and support plans”;
  - (c) in paragraph (b), for “plan is to contain” substitute “care and support plan is to contain (including what a personal education plan is to contain)”;
  - (d) in paragraph (c), for “plans” substitute “care and support plans”.
- (6) In subsection (7), for “a plan under this section” substitute “a care and support plan”.
- (7) In subsection (8), in paragraph (a), for “a plan under this section” substitute “a care and support plan”.

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(8) In subsection (9), for “plan maintained under this section” substitute “ care and support plan ”.

(9) After subsection (9) insert—

“(10) References in subsections (2A) to (9) to a care and support plan are to be interpreted as references to a care and support plan prepared or maintained under this section.”

#### Commencement Information

- I2** S. 16 in force at 2.11.2020 for specified purposes by [S.I. 2020/1182](#), [reg. 3\(1\)\(a\)](#)  
**I3** S. 16 in force at 1.9.2021 by [S.I. 2021/373](#), [art. 8\(za\)](#) (as inserted by [S.I. 2021/735](#), [art. 2\(5\)\(a\)](#))

### 17 Duty to refer a matter to a local authority that looks after a child

(1) Subsection (2) applies where—

- (a) it is brought to the attention of or otherwise appears to a governing body of a maintained school in Wales that a looked after child who is a registered pupil at the school may have additional learning needs, or
- (b) it is brought to the attention of or otherwise appears to a local authority that a child for whom it is responsible, but who is looked after by another local authority, may have additional learning needs.

(2) The governing body or local authority must refer the matter to the local authority that looks after the child.

#### Commencement Information

- I4** S. 17 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), [arts. 3, 4](#) (as amended by [S.I. 2021/735](#), [art. 2\(2\)\(a\)](#) and [S.I. 2021/938](#), [art. 2\(3\)](#))  
**I5** S. 17 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), [arts. 6, 7](#) (as amended by [S.I. 2021/735](#), [art. 2\(3\)\(a\)](#) and [S.I. 2021/938](#), [art. 2\(4\)\(5\)](#))  
**I6** S. 17 in force at 1.1.2022 for specified purposes by [S.I. 2021/1243](#), [art. 3\(c\)](#) (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](#))  
**I7** S. 17 in force at 1.1.2022 for specified purposes by [S.I. 2021/1244](#), [art. 3\(c\)](#) (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](#))  
**I8** S. 17 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), [arts. 3\(c\), 4](#) (with [art. 1\(4\)](#))

### 18 Duty to decide whether a looked after child has additional learning needs

(1) Where it is brought to the attention of, or otherwise appears to, a local authority that looks after a child that the child may have additional learning needs, it must decide whether the child has additional learning needs, unless any of the circumstances in subsection (2) apply.

(2) The circumstances are—

- (a) an individual development plan is being maintained for the child under section 19;

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- (b) the local authority has previously decided whether the child has additional learning needs and the local authority is satisfied that—
    - (i) the child's needs have not changed materially since that decision was made, and
    - (ii) there is no new information that materially affects that decision;
  - (c) the child is in the area of a local authority in England.
- (3) If the local authority decides that the looked after child does not have additional learning needs it must notify the child, the child's parent and the child's independent reviewing officer of—
- (a) the decision, and
  - (b) the reasons for the decision.

#### Modifications etc. (not altering text)

- C1** S. 18(3) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(c)**

#### Commencement Information

- I9** S. 18 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), arts. 3, 4 (as amended by [S.I. 2021/735](#), art. 2(2)(a) and [S.I. 2021/938](#), art. 2(3))
- I10** S. 18 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), arts. 6, 7 (as amended by [S.I. 2021/735](#), art. 2(3)(a) and [S.I. 2021/938](#), art. 2(4)(5))
- I11** S. 18 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), arts. 3(c), 4 (with art. 1(4))
- I12** S. 18 in force at 1.1.2022 for specified purposes by [S.I. 2021/1244](#), art. 3(c) (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)
- I13** S. 18 in force at 1.1.2022 for specified purposes by [S.I. 2021/1243](#), art. 3(c) (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)

## 19 Duties to prepare and maintain plans for looked after children

- (1) The duty in subsection (2) applies if a local authority that looks after a child has decided under section 18 that a looked after child has additional learning needs.
- (2) The local authority must prepare and maintain an individual development plan for the child if the child is in the area of a local authority in Wales.
- (3) A local authority that prepares or maintains an individual development plan for a child it looks after must—
  - (a) consider whether additional learning provision should be provided to the child in Welsh, and
  - (b) if it decides that a particular kind of additional learning provision should be provided in Welsh, specify in the individual development plan that it should be provided in Welsh.
- (4) If the reasonable needs of the child for additional learning provision cannot be met unless the local authority also secures provision of the kind mentioned in subsection (5), the authority must include a description of that other provision in the individual development plan.

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- (5) The kinds of provision are—
- (a) a place at a particular school or other institution;
  - (b) board and lodging.
- (6) The duty in subsection (4)—
- (a) does not apply to a place at a particular school or other institution that is not a maintained school in Wales if the person or body responsible for admissions to the school or other institution does not consent;
  - (b) is subject to the duties in sections 55, 56(3) and 59.
- (7) Where a local authority that looks after a child maintains an individual development plan for the child, the authority must—
- (a) secure the additional learning provision described in the plan,
  - (b) secure any other provision described in the plan in accordance with subsection (4), and
  - (c) if the plan specifies that a particular kind of additional learning provision should be provided in Welsh, take all reasonable steps to secure that it is provided to the child in Welsh.
- (8) See section 35 for provision about the transfer of duties to maintain individual development plans for children who already have plans when they become looked after.

#### **Modifications etc. (not altering text)**

- C2** S. 19(7): power to modify conferred (temp.) (1.9.2021) by 2020 c. 7, Sch. 17 para. 7(5) (as amended by [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/861\)](#), regs. 1, **11(2)**)

#### **Commencement Information**

- I14** S. 19 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), **arts. 3, 4** (as amended by [S.I. 2021/735](#), art. 2(2)(a) and [S.I. 2021/938](#), art. 2(3))
- I15** S. 19 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), **arts. 6, 7** (as amended by [S.I. 2021/735](#), art. 2(3)(a) and [S.I. 2021/938](#), art. 2(4)(5))
- I16** S. 19 in force at 1.1.2022 for specified purposes by [S.I. 2021/1244](#), **art. 3(c)** (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**)
- I17** S. 19 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), **arts. 3(c), 4** (with art. 1(4))
- I18** S. 19 in force at 1.1.2022 for specified purposes by [S.I. 2021/1243](#), **art. 3(c)** (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**)

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