



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

2018 anaw 2

## PART 2

### ADDITIONAL LEARNING NEEDS

#### CHAPTER 2

##### INDIVIDUAL DEVELOPMENT PLANS

*Local authority reconsideration of governing body decisions and plans*

#### **26 Reconsideration by local authorities of decisions under section 11(1)**

- (1) Subsection (2) applies where—
  - (a) a governing body of a maintained school has made a decision about a registered pupil under section 11(1) or has refused to make a decision under that section, and
  - (b) the child or young person or, in the case of a child, the child's parent requests the local authority responsible for the child or young person to reconsider the matter.
- (2) The local authority must decide whether the child or young person has additional learning needs.
- (3) Before it makes its decision, the local authority must inform the governing body of the request and invite representations from the governing body.
- (4) For the purposes of this Part, a decision under subsection (2) is to be treated as a decision under section 13(1).

*Status: Point in time view as at 01/01/2022.*

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- (5) Where a local authority makes a decision under subsection (2), the previous decision of the governing body under section 11(1) ceases to have effect.

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

- C1** S. 26(1)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), [regs. 1\(2\)](#), [37\(1\)\(k\)](#)
- C2** S. 26(1)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), [regs. 1\(2\)](#), [35\(1\)\(h\)](#)

#### Commencement Information

- I1** S. 26 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\(3\)](#))
- I2** S. 26 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\(4\)\(5\)](#))
- I3** S. 26 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), [arts. 3\(c\), 4](#) (with [art. 1\(4\)](#))
- I4** S. 26 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](#))
- I5** S. 26 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](#); and (10.6.2022) by [S.I. 2022/663](#), [art. 3](#) and (21.8.2023) by [S.I. 2023/932](#), [art. 3](#))

## 27 Reconsideration by local authorities of plans maintained under section 12

- (1) Subsection (2) applies where—
- a governing body of a maintained school maintains an individual development plan for a registered pupil under section 12(1) or 12(3), and
  - the child or young person or, in the case of a child, the child's parent requests the local authority responsible for the child or young person to reconsider the plan with a view to it being revised.
- (2) The local authority must reconsider the plan and decide whether or not to revise the plan.
- (3) Before it makes its decision, the local authority must inform the governing body of the request and invite representations from the governing body.
- (4) If the local authority decides that the plan should not be revised it must notify the child or young person and, in the case of a child, the child's parent of—
- the decision, and
  - the reasons for the decision.
- (5) The local authority must give a copy of a notification under subsection (4) to the governing body.
- (6) If the local authority decides that the plan should be revised, or is ordered to revise it by the Education Tribunal for Wales, it must prepare a revised plan and either—
- direct the governing body to maintain it, or
  - exercise the power in section 28(6) to take over responsibility for maintaining the plan.

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(7) The local authority must give a copy of the revised plan to the governing body (for provision about others to whom a copy must be given, see section 23(11)).

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

- C3** S. 27(1)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(i)**
- C4** S. 27(1)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(l)**
- C5** S. 27(4) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(i)**
- C6** S. 27(4) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(m)**

#### Commencement Information

- I6** S. 27 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)**)
- I7** S. 27 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)**)
- I8** S. 27 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**; and (10.6.2022) by [S.I. 2022/663](#), **art. 3** and (21.8.2023) by [S.I. 2023/932](#), **art. 3**)
- I9** S. 27 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), **arts. 3(c), 4** (with **art. 1(4)**)
- I10** S. 27 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**)

## 28 Local authority duty to decide whether to take over governing body plans

(1) Subsection (3) applies where—

- (a) a governing body of a maintained school or an institution in the further education sector maintains an individual development plan for a child or young person under section 12(1) or 12(3), and
- (b) any of the persons mentioned in subsection (2) requests the local authority responsible for a child or young person to consider taking over responsibility for maintaining the plan.

(2) The persons are—

- (a) the child or young person,
- (b) in the case of a child, the child's parent, or
- (c) the governing body.

(3) The local authority must decide whether it should take over responsibility for maintaining an individual development plan maintained by the governing body.

(4) Where a governing body makes the request, the local authority must inform the child or young person and, in the case of a child, the child's parent of the request and invite representations.

(5) Where a child, a child's parent or a young person makes the request, the local authority must inform the governing body of the request and invite representations from the governing body.

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- (6) A local authority may decide to take over responsibility for maintaining a plan maintained by a governing body of a maintained school if it decides under section 27(6) that the plan should be revised.
- (7) The local authority must notify the child or young person, in the case of a child, the child's parent, and the governing body of—
- (a) a decision under subsection (3) or (6), and
  - (b) the reasons for the decision.
- (8) If the local authority decides to take over responsibility for maintaining the plan—
- (a) it is to be treated as maintained by the authority under section 14 for the purposes of this Part, and
  - (b) the governing body is not required to maintain it, from the date on which notice is given under subsection (7).

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

- C7** S. 28(2)(a) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(n)**
- C8** S. 28(2)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(j)**
- C9** S. 28(4)(5) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(j)**
- C10** S. 28(4)(5) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(n)**
- C11** S. 28(7) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(n)**
- C12** S. 28(7) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(j)**

#### **Commencement Information**

- I11** S. 28 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))
- I12** S. 28 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))
- I13** S. 28 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**)
- I14** S. 28 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**; and (10.6.2022) by [S.I. 2022/663](#), **art. 3**; and (21.8.2023) by [S.I. 2023/932](#), **art. 3**)
- I15** S. 28 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), **arts. 3(c), 4** (with art. 1(4))

## **29 Circumstances in which the duties in sections 26(2), 27(2) and 28(3) do not apply**

- (1) Following a request under section 26(1)(b), 27(1)(b) or 28(1)(b), the duty in section 26(2), 27(2) or 28(3) (as the case may be) does not apply in relation to a child or young person if any of the circumstances in subsection (2) apply.
- (2) The circumstances are—

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- (a) the local authority has previously made a decision under the same section in relation to the same child or young person and it is satisfied that—
  - (i) the child's or young person's needs have not changed materially since the previous decision, and
  - (ii) there is no new information that would materially affect that decision.
- (b) the request relates to a child who has become looked after by a local authority.

#### Commencement Information

- I16** S. 29 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))
- I17** S. 29 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))
- I18** S. 29 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; and (10.6.2022) by S.I. 2022/663, art. 3 and (21.8.2023) by S.I. 2023/932, art. 3)
- I19** S. 29 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)
- I20** S. 29 in force at 1.1.2022 for specified purposes by S.I. 2021/1245, arts. 3(c), 4 (with art. 1(4))

### 30 Registration or enrolment at more than one institution

- (1) Subsection (2) applies where—
  - (a) it is brought to the attention of, or otherwise appears to the governing body of a maintained school in Wales or an institution in the further education sector in Wales that a child or young person who is a registered pupil or enrolled student at the school or institution (as the case may be) may have additional learning needs,
  - (b) the child or young person is a registered pupil or an enrolled student at another institution (that institution being a school or an institution in the further education sector),
  - (c) the child or young person is to be provided with education or training at each of the institutions at which he or she is a registered pupil or an enrolled student,
  - (d) an individual development plan is not being maintained for the child or young person, and
  - (e) a local authority is responsible for the child or young person.
- (2) The governing body must refer the child's or young person's case to the local authority responsible for the child or young person for the authority to decide under section 13(1).
- (3) Subsections (4), (5) and (6) apply where—
  - (a) the governing body of a maintained school in Wales or an institution in the further education sector in Wales maintains an individual development plan for a child or young person,
  - (b) the child or young person becomes a registered pupil or an enrolled student at another institution (that institution being a school or an institution in the further education sector),

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- (c) the child or young person is to be provided with education or training at each of the institutions at which he or she is a registered pupil or an enrolled student, and
  - (d) a local authority is responsible for the child or young person.
- (4) The local authority responsible for the child or young person must maintain the individual development plan instead of the governing body and the plan is to be treated as maintained by the local authority under section 14 for the purposes of this Part.
- (5) The local authority's duty in subsection (4) takes effect on the day on which the authority is informed under subsection (6) or otherwise becomes aware that the circumstances mentioned in subsection (3) apply.
- (6) If the governing body of a maintained school in Wales or an institution in the further education sector in Wales is aware that the circumstances described in subsection (3) apply in respect of a child or young person who is a registered pupil or an enrolled student at the school or institution (as the case may be), the governing body must inform the local authority responsible for the child or young person of that fact.
- (7) A local authority may not exercise its power to direct under subsections (2)(b) or (4) of section 14 in relation to a child or young person who is a registered pupil or an enrolled student at more than one institution (whether a school or an institution in the further education sector) if he or she is to be provided with education or training at each of those institutions.

#### Commencement Information

- I21** S. 30 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)**)
- I22** S. 30 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)**)
- I23** S. 30 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**)
- I24** S. 30 in force at 1.1.2022 for specified purposes by S.I. 2021/1245, **arts. 3(c), 4** (with **art. 1(4)**)
- I25** S. 30 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**; and (10.6.2022) by S.I. 2022/663, **art. 3** and (21.8.2023) by S.I. 2023/932, **art. 3**)

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