



# 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 detained persons*

#### **42 Duty to keep individual development plans for detained persons**

- (1) This section applies where an individual development plan was being maintained for a detained person immediately before the beginning of his or her detention by—
  - (a) the governing body of a maintained school in Wales or an institution in the further education sector in Wales under section 12, or
  - (b) a local authority in Wales under section 14 or 19.
- (2) This section also applies where an individual development plan is prepared under section 40(5).
- (3) If the home authority for the detained person is a home authority in Wales, the home authority must keep the individual development plan for the detained person during his or her detention in relevant youth accommodation.
- (4) But the duty in subsection (3) does not apply where the detained person is a young person who does not consent to the individual development plan being kept.
- (5) Nor does the duty in subsection (3) apply in relation to an individual development plan that was being maintained by the governing body of a maintained school or an

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institution in the further education sector, or by a local authority other than the home authority, unless the fact that the plan was being maintained is brought to the attention of the home authority.

- (6) The home authority must inform the detained person and the parent of a detained person who is a child that it is keeping an individual development plan while the person is detained in relevant youth accommodation.
- (7) The home authority must give a copy of the individual development plan to the person in charge of the relevant youth accommodation.
- (8) Where a home authority keeps an individual development plan, it must—
  - (a) arrange for appropriate additional learning provision to be provided to the detained person, and
  - (b) if the plan specifies that the additional learning provision should be provided in Welsh, take all reasonable steps to secure that the appropriate additional learning provision is provided to the detained person in Welsh.
- (9) In this section “appropriate additional learning provision” is—
  - (a) the additional learning provision specified in the individual development plan,
  - (b) if it appears to the home authority that it is not practicable for the additional learning provision specified in the plan to be provided, educational provision corresponding as closely as possible to that additional learning provision, or
  - (c) if it appears to the home authority that the additional learning provision specified in the plan is no longer appropriate for the detained person, additional learning provision which the home authority considers appropriate.

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

- C1** S. 42(4) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **38(c)**
- C2** S. 42(6) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **36(a)**
- C3** S. 42(6) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **38(d)**

#### Commencement Information

- I1** S. 42 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))
- I2** S. 42 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), art. 5
- I3** S. 42 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. 42 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), arts. 3(e), 4 (with art. 1(4))
- I5** S. 42 in force at 1.1.2022 for specified purposes by [S.I. 2021/1244](#), art. 3(e) (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)
- I6** S. 42 in force at 1.1.2022 for specified purposes by [S.I. 2021/1243](#), art. 3(e) (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. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/895](#), arts. 3(e), 4
- I8** S. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/897](#), art. 3(e) (with arts. 1(8), 4-21) (as amended (21.8.2023) by [S.I. 2023/932](#), art. 6)
- I9** S. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/898](#), arts. 2(e), 3

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- I10** S. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/893](#), **art. 3** (with [art. 1\(2\)](#))
- I11** S. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/893](#), **art. 4** (with [art. 1\(2\)](#))
- I12** S. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/892](#), **art. 3(e)** (with [arts. 2, 4-18](#))
- I13** S. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/894](#), **art. 3(e)**
- I14** S. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/891](#), **art. 3(e)** (with [arts. 4-25](#)) (as amended (21.8.2023) by [S.I. 2023/932](#), **art. 4**)
- I15** S. 42 in force at 1.9.2022 for specified purposes by [S.I. 2022/896](#), **art. 3(e)** (with [arts. 4-22](#)) (as amended (21.8.2023) by [S.I. 2023/932](#), **art. 5**)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 42 coming into force by [S.I. 2022/893 art. 2\(e\)](#)
- specified provision(s) coming into force by [S.I. 2021/381 art. 23](#) (This commencement not applied to legislation.gov.uk. S.I. 2021/381 revoked (12.8.2021) by S.I. 2021/938, art. 3)
- specified provision(s) coming into force by [S.I. 2021/383 art. 23](#) (This commencement not applied to legislation.gov.uk. S.I. 2021/383 revoked (12.8.2021) by S.I. 2021/938, art. 4)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(3)(ca)(cb) inserted by [2022 asc 1 Sch. 4 para. 39\(2\)](#)
- s. 5(1)(da) inserted by [2022 asc 1 Sch. 4 para. 39\(3\)](#)
- s. 65(4)(da)(db) inserted by [2022 asc 1 Sch. 4 para. 39\(5\)](#)
- Sch. 1 para. 4(32)(a)(i)para. 4(32)(a)(ii)(b) coming into force by [S.I. 2022/893 art. 2\(o\)\(xi\)](#)