



Additional Learning Needs and Education Tribunal (Wales) Act 2018

2018 anaw 2

PART 2

ADDITIONAL LEARNING NEEDS

CHAPTER 2

INDIVIDUAL DEVELOPMENT PLANS

Ceasing to maintain plans

31 Ceasing to maintain individual development plans

- (1) The duty of the governing body of a maintained school to prepare or maintain a plan for a child or young person under section 12 ceases to apply—
 - (a) in the case of a child or young person, if he or she ceases to be a registered pupil of the school, or
 - (b) in the case of a child, if the child becomes looked after by a local authority.
- (2) The duty of the governing body of an institution in the further education sector under section 12 to prepare or maintain a plan for a young person ceases to apply if the young person ceases to be enrolled as a student at the institution.
- (3) The duty of a local authority under section 14 to prepare or maintain a plan for a child or young person ceases to apply—
 - (a) in the case of a child or young person, if the local authority ceases to be responsible for the child or young person, or
 - (b) in the case of a child, if the child becomes looked after by a local authority.
- (4) The duty of a local authority to prepare or maintain a plan for a looked after child under section 19 ceases to apply if—

Status: This is the original version (as it was originally enacted).

- (a) he or she ceases to be a looked after child for the purposes of this Part (whether because he or she is over compulsory school age or otherwise (see section 15)), or
 - (b) he or she ceases to be in the area of a local authority in Wales.
- (5) Where the governing body of a maintained school or an institution in the further education sector has a duty under this Part to maintain an individual development plan for a child or young person, the governing body may cease to maintain the plan if it decides that the child or young person no longer has additional learning needs.
- (6) Where a local authority has a duty under this Part to maintain an individual development plan for a child or young person, the authority may cease to maintain the plan if the authority—
- (a) decides that the child or young person no longer has additional learning needs, or
 - (b) in the case of a young person who is neither a registered pupil at a maintained school nor enrolled as a student at an institution in the further education sector in Wales, decides in accordance with regulations under section 46 that it is no longer necessary to maintain it to meet the young person’s reasonable needs for education or training.
- (7) Before a governing body decides under subsection (5), or a local authority decides under subsection (6), it must notify—
- (a) the child or young person,
 - (b) in the case of a child, the child’s parent, and
 - (c) in the case of a looked after child, the child’s independent reviewing officer, that it proposes to make such a decision.
- (8) After the governing body or local authority has made its decision, it must notify the child or young person, in the case of a child, the child’s parent and, in the case of a looked after child, the child’s independent reviewing officer of—
- (a) the decision, and
 - (b) the reasons for the decision.
- (9) And the governing body of a maintained school must also notify the child or young person and, in the case of a child, the child’s parent of his or her right to request the local authority to reconsider the matter under section 32.
- (10) See section 44 (provisions that do not apply to children and young persons in detention) for further circumstances in which the duty to maintain a plan ceases.

32 Reconsideration by local authorities of decisions of governing bodies under section 31

- (1) Subsection (2) applies where—
- (a) a child, a child’s parent or a young person has been notified of a decision of a governing body of a maintained school under section 31, and
 - (b) the child, the child’s parent or the young person makes a request within a prescribed period to the local authority responsible for the child or young person for it to decide whether the governing body’s duty to maintain the plan should cease.

Status: This is the original version (as it was originally enacted).

- (2) The local authority must decide whether the governing body should cease to maintain the plan.
- (3) The local authority must notify the governing body and the child or young person and, in the case of a child, the child's parent of—
 - (a) the decision, and
 - (b) the reasons for the decision.
- (4) If the local authority decides that the plan should be maintained, the governing body must continue to maintain the plan.
- (5) If the local authority decides that the plan should not be maintained, the governing body must cease to maintain the plan, subject to section 33.

33 Limitation on ceasing to maintain plans to allow reconsideration or appeal

- (1) A governing body of a maintained school may not cease to maintain an individual development plan under section 31(5) unless subsection (2) or (3) applies.
- (2) This subsection applies if the period prescribed under section 32(1)(b) has ended and no request has been made under that section.
- (3) This subsection applies if the local authority has decided under section 32 that the plan should cease to be maintained and—
 - (a) the period prescribed under section 75 within which an appeal may be brought against the local authority's decision has ended without an appeal having been brought, or
 - (b) an appeal has been brought before the end of the period prescribed under section 75, and has been fully determined.
- (4) A governing body of an institution in the further education sector acting under section 31(5), or a local authority acting under section 31(6), may not cease to maintain an individual development plan until the later of—
 - (a) the period prescribed under section 75 within which an appeal may be brought against a decision not to maintain the plan having ended without an appeal having been brought, or
 - (b) an appeal having been brought before the end of the period prescribed under section 75, and having been fully determined.

34 Individual development plan after a young person's 25th birthday

- (1) The duty of the governing body of an institution in the further education sector under section 12, or of a local authority under section 14, to prepare or maintain a plan for a young person ceases to apply at the end of the academic year during which the young person attains the age of 25.
- (2) In this section, "academic year" means—
 - (a) in relation to a young person who attends an institution in the further education sector, a period of 12 months ending on 31 July, and
 - (b) in relation to any other young person, a period of 12 months ending on the day the young person's course of education or training ends or the day before the young person attains the age of 26 (whichever is earlier).