



# 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*

#### **40 Duty to prepare individual development plans for detained persons**

- (1) Subsection (2) applies where it is brought to the attention of, or otherwise appears to, a home authority in Wales that—
  - (a) a detained person may have additional learning needs, and
  - (b) an individual development plan is not being kept by a local authority under section 42.
- (2) The authority must—
  - (a) decide whether the detained person has additional learning needs, and
  - (b) if it decides that the detained person has additional learning needs, decide in accordance with regulations under section 46 whether it will be necessary for an individual development plan to be maintained for the detained person when he or she is released from detention to meet the detained person's reasonable needs for education or training.
- (3) Before the home authority makes its decision it must invite the person in charge of the relevant youth accommodation to participate in the decision and, if needed, the preparation of an individual development plan.

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- (4) If the home authority decides that the detained person does not have additional learning needs or that it will not be necessary for an individual development plan to be maintained for the detained person when he or she is released from detention, it must notify the detained person, the parent of a detained person who is a child and the person in charge of the relevant youth accommodation of the decision and the reasons for the decision.
- (5) If the home authority decides that a detained person has additional learning needs and that it will be necessary for an individual development plan to be maintained for the detained person when he or she is released from detention, it must—
- (a) prepare an individual development plan for the detained person, and
  - (b) give a copy of the plan to the detained person, the parent of a detained person who is a child and the person in charge of the relevant youth accommodation.
- (6) If the home authority prepares an individual development plan, it must—
- (a) decide whether additional learning provision should be provided to the detained person in Welsh, and
  - (b) if it decides that a particular kind of additional learning provision should be provided in Welsh, specify in the plan that it should be provided in Welsh.
- (7) If it will not be possible to meet the reasonable needs of the detained person for additional learning provision when he or she is released from detention unless the home authority also secures provision of the kind mentioned in subsection (8), the authority must include a description of that other provision in the plan.
- (8) The kinds of provision are—
- (a) a place at a particular school or other institution;
  - (b) board and lodging.
- (9) The duty in subsection (7)—
- (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.

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

- C1** S. 40(4) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **36(a)**
- C2** S. 40(4) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **38(a)**
- C3** S. 40(5)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **36(a)**
- C4** S. 40(5)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **38(b)**

#### Commencement Information

- I1** S. 40 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. 40 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), art. 5
- I3** S. 40 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))

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- I4** S. 40 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**)
- I5** S. 40 in force at 1.1.2022 for specified purposes by S.I. 2021/1245, **arts. 3(e), 4** (with art. 1(4))
- I6** S. 40 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**)
- I7** S. 40 in force at 1.9.2022 for specified purposes by S.I. 2022/895, **arts. 3(e), 4**
- I8** S. 40 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. 40 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**)
- I10** S. 40 in force at 1.9.2022 for specified purposes by S.I. 2022/894, **art. 3(e)**
- I11** S. 40 in force at 1.9.2022 for specified purposes by S.I. 2022/898, **arts. 2(e), 3**
- I12** S. 40 in force at 1.9.2022 for specified purposes by S.I. 2022/893, **arts. 3, 4** (with art. 1(2))
- I13** S. 40 in force at 1.9.2022 for specified purposes by S.I. 2022/892, **art. 3(e)** (with arts. 2, 4-18)
- I14** S. 40 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. 40 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\(o\)\(xi\)](#)