
WELSH STATUTORY INSTRUMENTS

2021 No. 401

The Additional Learning Needs (Wales) Regulations 2021

PART 2

INDIVIDUAL DEVELOPMENT PLANS

Detention under Part 3 of Mental Health Act 1983; application of 2018 Act

Child or young person with individual development plan prior to detention in hospital

22.—(1) This regulation applies where—

- (a) a child or young person is subject to a detention order,
- (b) the child or young person is detained in hospital under Part 3 of the 1983 Act, and
- (c) immediately before the beginning of the detention in hospital, an individual development plan was being maintained or kept for the child or young person under Part 2 of the 2018 Act.

(2) The relevant local authority for the child or young person must maintain the individual development plan; and the plan is to be treated as being maintained under section 14 of the 2018 Act for the purposes of Part 2 of that Act, with any provision described in the plan in accordance with section 19(4) or 40(7) of the 2018 Act being treated as described in accordance with section 14(6).

(3) But the duty to maintain the plan in paragraph (2) does not apply in relation to a plan that was being maintained or kept by a governing body or a local authority other than the relevant local authority unless the fact that the plan was being maintained or kept is brought to the attention of the relevant local authority.

(4) The 2018 Act and other provisions under Part 2 of that Act (including these Regulations) apply with the modifications provided for in Schedule 2 in relation to the child or young person while that child or young person is subject to a detention order and detained in hospital under Part 3 of the 1983 Act.

(5) Where, immediately before the beginning of the detention in hospital, the plan was being kept under Part 2 of the 2018 Act, the relevant local authority must—

- (a) inform the child or young person that it has become responsible for maintaining the plan,
- (b) if the plan is for a child, inform the child's parent, and
- (c) review the plan,

(for where the plan was being maintained by another body immediately before the beginning of the detention in hospital, see sections 22(2) and 23 of the 2018 Act as applied by this regulation).

(6) The relevant local authority must complete the review of the plan promptly and in any event within the period of 7 weeks starting with the day after the day on which the child or young person is detained in hospital.

(7) The relevant local authority need not complete the review within that 7 week period if it is impractical to do so due to circumstances beyond the authority's control.

(8) For the purposes of paragraph (6) a review is completed when the relevant local authority gives, under Part 2 of the 2018 Act, any of the following—

- (a) a copy of the revised individual development plan;
- (b) notification of a decision that the plan should not be revised;
- (c) notification of a decision that the child or young person no longer has additional learning needs;
- (d) if the person is a young person, notification of a decision that it is no longer necessary to maintain the plan to meet the young person's reasonable needs for education or training.