

These notes refer to the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (c.2) which received Royal Assent on 24 January 2018

ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS OF THE ACT

Part 2 – Additional Learning Needs

Chapter 2 – Individual Development Plans

Additional learning provision for looked after children

Section 21 - Individual development plans: Local Health Boards and NHS Trusts

63. **Section 21** requires an NHS body to inform the body that has made a section 20 referral, and if different, the body that maintains an individual development plan for the child or young person concerned, of the outcome of the referral (subsections (1) and (2)). It must do so within the period of time to be prescribed in regulations, subject to any prescribed exceptions (subsection (10)). In cases where a relevant treatment or service is identified, once informed, the body maintaining the individual development plan must include the treatment or service as ALP within the plan as provision to be delivered by the NHS body (subsection (3)). If it was decided that the provision should be provided in Welsh, this must also be specified in the plan (subsection (4)). The NHS body, not the governing body or local authority, is then under a duty to secure the provision, which may only be changed or removed from the plan on a review under section 23 or 24 and with the agreement or at the request of the NHS body. If so requested, the governing body or local authority must comply with the request (subsections (5) – (7)). As any relevant treatment or service identified and included in an IDP is ALP, then there can be an appeal in relation to it, or the fact that it is not in the IDP (see section 70).
64. Where the Tribunal orders a revision to the ALP included in the plan under this section, the NHS body is not required to secure the revised provision unless it agrees to do so (subsection (9)). If it does not agree, the body maintaining the IDP is under a duty to secure the ALP set out (sections 12(7), 14(10), 19(7)).