



# Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018

2018 dccc 2

# Additional Learning Needs and Education Tribunal (Wales) Act 2018

2018 anaw 2

---

Lluniwyd Nodiadau Esboniadol yn gymorth i ddeall y Ddeddf hon ac maent ar gael ar wahân.

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately.

---

**£27.50**





Deddf Anghenion Dysgu Ychwanegol a'r  
Tribiwnlys Addysg (Cymru) 2018

2018 dccc 2

Additional Learning Needs and Education  
Tribunal (Wales) Act 2018

2018 anaw 2



# Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018

2018 dccc 2

CYNNWYS

**RHAN 1**

TROSOLWG

- 1 Trosolwg o'r Ddeddf hon

**RHAN 2**

ANGHENION DYSGU YCHWANEGOL

**PENNOD 1**

TERMAU ALLWEDDOL, Y COD A CHYFRANOGIAD

*Termau allweddol*

- 2 Anghenion dysgu ychwanegol  
3 Darpariaeth ddysgu ychwanegol

*Cod ymarfer*

- 4 Cod anghenion dysgu ychwanegol  
5 Y weithdrefn ar gyfer gwneud y cod

*Cyfranogiad, confensiynau'r Cenhedloedd Unedig a mynediad at wybodaeth*

- 6 Dyletswydd i gynnwys a chefnogi plant, eu rhieni a phobl ifanc  
7 Dyletswydd i roi sylw i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn  
8 Dyletswydd i roi sylw i Gonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anabledau  
9 Cyngor a gwybodaeth



# Additional Learning Needs and Education Tribunal (Wales) Act 2018

2018 anaw 2

## CONTENTS

### PART 1

#### OVERVIEW

- 1 Overview of this Act

### PART 2

#### ADDITIONAL LEARNING NEEDS

##### CHAPTER 1

#### KEY TERMS, CODE AND PARTICIPATION

##### *Key terms*

- 2 Additional learning needs  
3 Additional learning provision

##### *Code of practice*

- 4 Additional learning needs code  
5 Procedure for making the code

##### *Participation, United Nations conventions and access to information*

- 6 Duty to involve and support children, their parents and young people  
7 Duty to have regard to the United Nations Convention on the Rights of the Child  
8 Duty to have regard to the United Nations Convention on the Rights of Persons with Disabilities  
9 Advice and information

**PENNOD 2****CYNLLUNIAU DATBLYGU UNIGOL***Llunio a chynnal cynlluniau datblygu unigol*

- 10 Cynlluniau datblygu unigol  
 11 Dyletswydd i benderfynu: ysgolion a gynhelir a sefydliadau addysg bellach  
 12 Dyletswyddau i lunio a chynnal cynlluniau: ysgolion a gynhelir a sefydliadau addysg bellach  
 13 Dyletswydd i benderfynu: awdurdodau lleol  
 14 Dyletswyddau i lunio a chynnal cynlluniau: awdurdodau lleol

*Darpariaeth ddysgu ychwanegol ar gyfer plant sy'n derbyn gofal*

- 15 Termau allweddol  
 16 Diwygiadau i Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014  
 17 Dyletswydd i atgyfeirio mater i awdurdod lleol sy'n gofalu am blentyn  
 18 Dyletswydd i benderfynu a oes gan blentyn sy'n derbyn gofal anghenion dysgu ychwanegol  
 19 Dyletswyddau i lunio a chynnal cynlluniau ar gyfer plant sy'n derbyn gofal

*Darpariaeth ddysgu ychwanegol a chyrrff y GIG*

- 20 Darpariaeth ddysgu ychwanegol: Byrddau Iechyd Lleol ac ymddiriedolaethau'r GIG  
 21 Cynlluniau datblygu unigol: Byrddau Iechyd Lleol ac ymddiriedolaethau'r GIG

*Gwybodaeth am gynlluniau*

- 22 Darparu gwybodaeth am gynlluniau datblygu unigol

*Adolygu cynlluniau*

- 23 Adolygu a diwygio cynlluniau datblygu unigol  
 24 Adolygu a diwygio cynlluniau datblygu unigol ar gyfer plant sy'n derbyn gofal  
 25 Perthynas cynlluniau datblygu unigol â dogfennau tebyg eraill

*Ailystyriaeth gan awdurdodau lleol o benderfyniadau a chynlluniau cyrrff llywodraethu*

- 26 Ailystyriaeth gan awdurdodau lleol o benderfyniadau o dan adran 11(1)  
 27 Ailystyriaeth gan awdurdodau lleol o gynlluniau a gynhelir o dan adran 12  
 28 Dyletswydd awdurdodau lleol i benderfynu pa un ai i gymryd drosodd gynlluniau cyrrff llywodraethu ai peidio  
 29 Amgylchiadau pan nad yw'r dyletswyddau yn adrannau 26(2), 27(2) a 28(3) yn gymwys  
 30 Cofrestru neu ymrestru mewn mwy nag un sefydliad

*Peidio â chynnal cynlluniau*

- 31 Peidio â chynnal cynlluniau datblygu unigol  
 32 Ailystyriaeth gan awdurdodau lleol o benderfyniadau cyrrff llywodraethu o dan adran 31  
 33 Cyfyngiad ar beidio â chynnal cynlluniau er mwyn caniatáu ailystyriaeth neu apêl  
 34 Cynllun datblygu unigol ar ôl pen-blwydd person ifanc yn 25 oed

*Trosglwyddo cynlluniau*

- 35 Trosglwyddo dyletswyddau i gynnal cynlluniau  
 36 Cais i drosglwyddo cynllun i gorff llywodraethu sefydliad addysg bellach  
 37 Rheoliadau ynghylch trosglwyddo cynlluniau datblygu unigol

## CHAPTER 2

### INDIVIDUAL DEVELOPMENT PLANS

#### *Preparing and maintaining individual development plans*

- 10 Individual development plans
- 11 Duty to decide: maintained schools and further education institutions
- 12 Duties to prepare and maintain plans: maintained schools and further education institutions
- 13 Duty to decide: local authorities
- 14 Duties to prepare and maintain plans: local authorities

#### *Additional learning provision for looked after children*

- 15 Key terms
- 16 Amendments to the Social Services and Well-being (Wales) Act 2014
- 17 Duty to refer a matter to a local authority that looks after a child
- 18 Duty to decide whether a looked after child has additional learning needs
- 19 Duties to prepare and maintain plans for looked after children

#### *Additional learning provision and NHS bodies*

- 20 Additional learning provision: Local Health Boards and NHS trusts
- 21 Individual development plans: Local Health Boards and NHS trusts

#### *Information about plans*

- 22 Provision of information about individual development plans

#### *Review of plans*

- 23 Review and revision of individual development plans
- 24 Review and revision of individual development plans for looked after children
- 25 Relationship of individual development plans to other similar documents

#### *Local authority reconsideration of governing body decisions and plans*

- 26 Reconsideration by local authorities of decisions under section 11(1)
- 27 Reconsideration by local authorities of plans maintained under section 12
- 28 Local authority duty to decide whether to take over governing body plans
- 29 Circumstances in which the duties in sections 26(2), 27(2) and 28(3) do not apply
- 30 Registration or enrolment at more than one institution

#### *Ceasing to maintain plans*

- 31 Ceasing to maintain individual development plans
- 32 Reconsideration by local authorities of decisions of governing bodies under section 31
- 33 Limitation on ceasing to maintain plans to allow reconsideration or appeal
- 34 Individual development plan after a young person's 25th birthday

#### *Transfer of plans*

- 35 Transfer of duties to maintain plans
- 36 Request to transfer plan to governing body of further education institution
- 37 Regulations about transfer of individual development plans

*Pwerau i gyfarwyddo cyrff llywodraethu ysgolion a gynhelir*

- 38 Pŵer awdurdod lleol i gyfarwyddo cyrff llywodraethu ysgolion a gynhelir  
*Darpariaeth ddysgu ychwanegol ar gyfer personau sy'n cael eu cadw'n gaeth*
- 39 Ystyr "person sy'n cael ei gadw'n gaeth" a themau allweddol eraill
- 40 Dyletswydd i lunio cynlluniau datblygu unigol ar gyfer personau sy'n cael eu cadw'n gaeth
- 41 Amgylchiadau pan nad yw'r ddyletswydd yn adran 40(2) yn gymwys
- 42 Dyletswydd i gadw cynlluniau datblygu unigol ar gyfer personau sy'n cael eu cadw'n gaeth
- 43 Rhyddhau person sy'n cael ei gadw'n gaeth
- 44 Darpariaethau penodol Rhan 2 nad ydynt i fod yn gymwys i blant a phersonau ifanc sy'n cael eu cadw'n gaeth
- 45 Cadw'n gaeth o dan Ran 3 o Ddeddf Iechyd Meddwl 1983

*Yr angen am gynlluniau*

- 46 Rheoliadau ynghylch penderfynu a oes angen cynllun datblygu unigol

**PENNOD 3****SWYDDOGAETHAU ATODOL***Swyddogaethau sy'n ymwneud â sicrhau darpariaeth ddysgu ychwanegol*

- 47 Dyletswydd i gymryd pob cam rhesymol i sicrhau darpariaeth ddysgu ychwanegol
- 48 Dyletswydd i dderbyn plant i ysgolion a gynhelir a enwir
- 49 Dim pŵer i godi tâl am ddarpariaeth a sicrheir o dan y Rhan hon
- 50 Dyletswyddau Gweinidogion Cymru i sicrhau addysg a hyfforddiant ôl-16

*Darpariaeth ddysgu ychwanegol mewn mathau penodol o ysgol neu sefydliad arall*

- 51 Dyletswydd i ffafrio addysg i blant mewn ysgolion prif ffrwd a gynhelir
- 52 Plant ag anghenion dysgu ychwanegol mewn ysgolion prif ffrwd a gynhelir
- 53 Darpariaeth ddysgu ychwanegol mewn mannau ac eithrio mewn ysgolion
- 54 Diwygiadau i ofynion cofrestru ar gyfer ysgolion annibynnol yng Nghymru
- 55 Amodau sy'n gymwys i sicrhau darpariaeth ddysgu ychwanegol mewn ysgolion annibynnol
- 56 Rhestr o sefydliadau ôl-16 arbennig annibynnol
- 57 Diddymu cymeradwyo ysgolion arbennig nas cynhelir yng Nghymru
- 58 Diddymu cymeradwyo ysgolion annibynnol yng Nghymru
- 59 Darpariaeth ddysgu ychwanegol y tu allan i Gymru a Lloegr

*Swyddogion cydlynu anghenion dysgu ychwanegol*

- 60 Cydlynnydd anghenion dysgu ychwanegol
- 61 Swyddog arweiniol clinigol addysg dynodedig
- 62 Swyddog arweiniol anghenion dysgu ychwanegol blynyddoedd cynnar

*Swyddogaethau amrywiol*

- 63 Dyletswydd i gadw darpariaeth ddysgu ychwanegol o dan adolygiad
- 64 Dyletswydd cyrff iechyd i hysbysu rhieni etc.
- 65 Dyletswyddau i ddarparu gwybodaeth a help arall
- 66 Hawl awdurdod lleol i gael mynediad i fangreoddedd ysgolion a sefydliadau eraill



*Powers to direct governing bodies of maintained schools*

38 Local authority power to direct governing bodies of maintained schools

*Additional learning provision for detained persons*

39 Meaning of “detained person” and other key terms

40 Duty to prepare individual development plans for detained persons

41 Circumstances in which the duty in section 40(2) does not apply

42 Duty to keep individual development plans for detained persons

43 Release of a detained person

44 Certain provisions of Part 2 not to apply to children and young persons in detention

45 Detention under Part 3 of the Mental Health Act 1983

*Necessity of plans*

46 Regulations about deciding whether an individual development plan is necessary

**CHAPTER 3**

**SUPPLEMENTARY FUNCTIONS**

*Functions relating to securing additional learning provision*

47 Duty to take all reasonable steps to secure additional learning provision

48 Duty to admit children to named maintained schools

49 No power to charge for provision secured under this Part

50 Welsh Ministers’ duties to secure post-16 education and training

*Additional learning provision in particular kinds of school or other institution*

51 Duty to favour education for children at mainstream maintained schools

52 Children with additional learning needs in mainstream maintained schools

53 Additional learning provision otherwise than in schools

54 Amendments to registration requirements for independent schools in Wales

55 Conditions applicable to securing additional learning provision at independent schools

56 List of independent special post-16 institutions

57 Abolition of approval of non-maintained special schools in Wales

58 Abolition of approval of independent schools in Wales

59 Additional learning provision outside England and Wales

*Additional learning needs co-ordinating officers*

60 Additional learning needs co-ordinator

61 Designated education clinical lead officer

62 Early years additional learning needs lead officer

*Miscellaneous functions*

63 Duty to keep additional learning provision under review

64 Duty of health bodies to notify parents etc.

65 Duties to provide information and other help

66 Right of local authority to access premises of schools and other institutions

67 Darparu nwyddau neu wasanaethau mewn perthynas â darpariaeth ddysgu ychwanegol

#### **PENNOD 4**

##### **OSGOI A DATRYS ANGHYTUNDEBAU**

###### *Trefniadau awdurdodau lleol*

68 Trefniadau ar gyfer osgoi a datrys anghytundebau

69 Gwasanaethau eirioli annibynnol

###### *Apelau a cheisiadau i'r Tribiwnlys*

70 Hawliau o ran apelau a cheisiadau

71 Penderfyniadau ar apelau a cheisiadau o dan adran 70

72 Hawliau o ran apelio: personau sy'n cael eu cadw'n gaeth

73 Penderfyniadau ar apelau o dan adran 72

74 Rheoliadau ynghylch apelau a cheisiadau

75 Rheoliadau ynghylch y weithdrefn

76 Cyrff GIG: tystiolaeth ac argymhellion y Tribiwnlys

77 Cydymffurfedd â gorchmynion

78 Pŵer i rannu dogfennau a gwybodaeth arall â Gweinidogion Cymru

79 Trosedd

80 Lwfansau am fod yn bresennol yn Nhribiwnlys Addysg Cymru

81 Apelau o Dribiwnlys Addysg Cymru i'r Uwch Dribiwnlys

#### **PENNOD 5**

##### **CYFFREDINOL**

###### *Gwybodaeth*

82 Rheoliadau ynghylch datgelu a defnyddio gwybodaeth

###### *Galluedd*

83 Rhieni a phobl ifanc nad oes ganddynt alluedd

84 Galluedd plant

85 Cyfeillion achos ar gyfer plant nad oes ganddynt alluedd

###### *Cyrsiau addysg uwch a ddarperir gan sefydliadau addysg bellach*

86 Myfyrwyr mewn sefydliadau addysg bellach sy'n dilyn cyrsiau addysg uwch

###### *Disgyblion a myfyrwyr mewn sefydliadau yng Nghymru sy'n preswyllo yn Lloegr*

87 Cymhwyso darpariaethau ailystyried i ddisgyblion a myfyrwyr sy'n preswyllo yn Lloegr

###### *Rhoi hysbysiad etc.*

88 Rhoi hysbysiad etc. o dan y Rhan hon

###### *Adolygu darpariaeth ddysgu ychwanegol yn Gymraeg*

89 Adolygu darpariaeth ddysgu ychwanegol yn Gymraeg

90 Pŵer i ddiwygio dyletswyddau i sicrhau darpariaeth ddysgu ychwanegol yn Gymraeg

67 Provision of goods or services in relation to additional learning provision

#### **CHAPTER 4**

#### **AVOIDING AND RESOLVING DISAGREEMENTS**

##### *Local authority arrangements*

68 Arrangements for the avoidance and resolution of disagreements

69 Independent advocacy services

##### *Appeals and applications to the Tribunal*

70 Appeal and application rights

71 Decisions on appeals and applications under section 70

72 Appeal rights: detained persons

73 Decisions on appeals under section 72

74 Regulations about appeals and applications

75 Regulations about procedure

76 NHS Bodies: evidence and Tribunal recommendations

77 Compliance with orders

78 Power to share documents and other information with the Welsh Ministers

79 Offence

80 Allowances for attendance at the Education Tribunal for Wales

81 Appeals from the Education Tribunal for Wales to the Upper Tribunal

#### **CHAPTER 5**

#### **GENERAL**

##### *Information*

82 Regulations about disclosure and use of information

##### *Capacity*

83 Parents and young people lacking capacity

84 Capacity of children

85 Case friends for children who lack capacity

##### *Higher education courses provided by further education institutions*

86 Students at further education institutions undertaking higher education courses

##### *Pupils and students at Welsh institutions who are resident in England*

87 Application of reconsideration provisions to pupils and students resident in England

##### *Giving notice etc.*

88 Giving notice etc. under this Part

##### *Review of additional learning provision in Welsh*

89 Review of additional learning provision in Welsh

90 Power to amend duties to secure additional learning provision in Welsh

**RHAN 3****TRIBIWNLYS ADDYSG CYMRU**

- 91 Cyfansoddiad Tribiwnlys Addysg Cymru
- 92 Y Llywydd ac aelodau'r paneli
- 93 Dirprwy Lywydd y Tribiwnlys
- 94 Tâl a threuliau

**RHAN 4****AMRYWIOL A CHYFFREDINOL***Amrywiol*

- 95 Ystyr "yn ardal" awdurdod lleol

*Cyffredinol*

- 96 Mân ddiwygiadau a diwygiadau canlyniadol a diddymiadau
- 97 Pŵer i wneud darpariaeth ganlyniadol a throsiannol etc.
- 98 Rheoliadau
- 99 Dehongli cyffredinol
- 100 Dod i rym
- 101 Enw byr a chynnwys y Ddeddf yn y rhestr o Ddeddfau Addysg

Atodlen 1 – Mân ddiwygiadau a diwygiadau canlyniadol a diddymiadau

### **PART 3**

#### **EDUCATION TRIBUNAL FOR WALES**

- 91 Constitution of the Education Tribunal for Wales
- 92 The President and members of the panels
- 93 Deputy President of the Tribunal
- 94 Remuneration and expenses

### **PART 4**

#### **MISCELLANEOUS AND GENERAL**

##### *Miscellaneous*

- 95 Meaning of “in the area” of a local authority

##### *General*

- 96 Minor and consequential amendments and repeals
- 97 Power to make consequential and transitional provision etc.
- 98 Regulations
- 99 General interpretation
- 100 Coming into force
- 101 Short title and inclusion as one of the Education Acts

Schedule 1 – Minor and consequential amendments and repeals



# Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018

Deddf Cynulliad Cenedlaethol Cymru i ddiwygio'r gyfraith ar addysg a hyfforddiant ar gyfer plant a phobl ifanc ag anghenion dysgu ychwanegol; ac i barhau â Thribiwnlys Anghenion Addysgol Arbennig Cymru a'i ailenwi'n Dribiwnlys Addysg Cymru. [ 24 Ionawr 2018]

**Gan ei fod wedi ei basio gan Gynulliad Cenedlaethol Cymru ac wedi derbyn cydsyniad Ei Mawrhydi, deddfir fel a ganlyn:**

## **RHAN 1**

### **TROSOLWG**

#### **1 Trosolwg o'r Ddeddf hon**

- (1) Mae Rhan 2 o'r Ddeddf hon yn sefydlu'r system statudol yng Nghymru ar gyfer diwallu anghenion dysgu ychwanegol plant a phobl ifanc; mae iddi 5 pennod.
- (2) Mae Pennod 1 (adrannau 2 i 9) –
  - (a) yn rhoi ystyr y termau allweddol "anghenion dysgu ychwanegol" a "darpariaeth ddysgu ychwanegol" (adrannau 2 a 3);
  - (b) yn darparu ar gyfer cod ymarfer ar anghenion dysgu ychwanegol (adrannau 4 a 5);
  - (c) yn gwneud darpariaeth ynghylch cyfranogiad plant, eu rhieni a phobl ifanc mewn penderfyniadau, ynghylch rhoi sylw i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn ac i Gonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anabledd, ac ynghylch mynediad at wybodaeth am y system anghenion dysgu ychwanegol a sefydlir gan Ran 2 (adrannau 6 i 9).
- (3) Mae Pennod 2 (adrannau 10 i 46) yn darparu ar gyfer cynlluniau datblygu unigol ar gyfer plant a phobl ifanc ag anghenion dysgu ychwanegol.



# Additional Learning Needs and Education Tribunal (Wales) Act 2018

An Act of the National Assembly for Wales to reform the law on education and training for children and young people with additional learning needs; and to continue the Special Educational Needs Tribunal for Wales and to rename it the Education Tribunal for Wales. [24 January 2018]

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

## PART 1

### OVERVIEW

#### 1 Overview of this Act

- (1) Part 2 of this Act establishes the statutory system in Wales for meeting the additional learning needs of children and young people; it contains 5 chapters.
- (2) Chapter 1 (sections 2 to 9) –
  - (a) gives the meaning of the key terms “additional learning needs” and “additional learning provision” (sections 2 and 3);
  - (b) provides for a code of practice on additional learning needs (sections 4 and 5);
  - (c) makes provision about participation by children, their parents and young people in decisions, about having regard to the United Nations Convention on the Rights of the Child and to the United Nations Convention on the Rights of Persons with Disabilities, and about access to information about the additional learning needs system established by Part 2 (sections 6 to 9).
- (3) Chapter 2 (sections 10 to 46) provides for individual development plans for children and young people with additional learning needs.

- (4) Gwneir darpariaeth i'r cynlluniau gael eu llunio a'u cynnal gan gyrff llywodraethu ysgolion a gynhelir, cyrff llywodraethu sefydliadau yn y sector addysg bellach neu awdurdodau lleol; ac i'r corff llywodraethu neu'r awdurdod a chanddo'r ddyletswydd i gynnal y cynllun sicrhau'r ddarpariaeth ddysgu ychwanegol sydd yn y cynllun.
- (5) Gwneir darpariaeth arbennig ar gyfer cynlluniau ar gyfer plant sy'n derbyn gofal (adrannau 15 i 19) a phlant a phobl ifanc sy'n ddarostyngedig i orchymyn cadw ac sydd wedi eu gosod mewn mathau penodol o lety cadw ieuencid (adrannau 39 i 45).
- (6) Gwneir darpariaeth sy'n ei gwneud yn ofynnol i gyrff iechyd penodol –
  - (a) ystyried, ar atgyfeiriad gan gorff llywodraethu neu awdurdod lleol, a oes triniaeth berthnasol neu wasanaeth perthnasol y gallent ei darparu neu ei ddarparu sy'n debygol o fod o fudd o ran ymdrin ag anghenion dysgu ychwanegol plentyn neu berson ifanc ac, os felly, sicrhau y darperir y driniaeth honno neu'r gwasanaeth hwnnw (adrannau 20 a 21);
  - (b) penodi swyddog arweiniol clinigol addysg dynodedig (adran 61);
  - (c) hysbysu rhieni ac awdurdodau lleol pan fônt yn ffurfio'r farn bod gan blentyn o dan yr oedran ysgol gorfodol, neu ei bod yn debygol bod gan blentyn o'r fath, anghenion dysgu ychwanegol (adran 64).
- (7) Mae Pennod 3 (adrannau 47 i 67) yn gwneud darpariaeth bellach ar gyfer swyddogaethau sy'n ymwneud â diwallu anghenion dysgu ychwanegol ac mewn cysylltiad â'r swyddogaethau hynny, gan gynnwys –
  - (a) dyletswydd ar awdurdodau lleol i ffafrio addysg mewn ysgolion prif ffrwd a gynhelir ar gyfer plant ag anghenion dysgu ychwanegol (adran 51);
  - (b) darpariaeth sy'n newid y system gofrestru ar gyfer ysgolion annibynnol i'w gwneud yn ofynnol i Weinidogion Cymru gyhoeddi rhestr o'r ysgolion cofrestredig sy'n nodi'r math neu'r mathau o ddarpariaeth ddysgu ychwanegol y mae ysgol annibynnol yn ei gwneud (adran 54);
  - (c) darpariaeth sy'n cyfyngu ar bŵer awdurdodau lleol i sicrhau darpariaeth ddysgu ychwanegol ar gyfer plant neu bobl ifanc mewn ysgolion annibynnol i ysgolion annibynnol cofrestredig (adran 55);
  - (d) dyletswydd ar Weinidogion Cymru i sefydlu a chynnal rhestr o sefydliadau ôl-16 arbennig annibynnol, a darpariaeth sy'n cyfyngu ar bŵer awdurdodau lleol i sicrhau darpariaeth ddysgu ychwanegol mewn sefydliadau o'r fath i'r rheini ar y rhestr (adran 56);
  - (e) dyletswydd ar gyrff llywodraethu ysgolion a gynhelir a sefydliadau yn y sector addysg bellach i benodi cydlynwyr anghenion dysgu ychwanegol (adran 60);
  - (f) dyletswydd ar gyrff iechyd, awdurdodau lleol, ysgolion a gynhelir a chyrrff eraill i ddarparu gwybodaeth a help arall i awdurdodau lleol sy'n gofyn amdano (adran 65).
- (8) Mae Pennod 4 (adrannau 68 i 81) yn gwneud darpariaeth ynghylch osgoi a datrys anghytundebau; mae'n darparu ar gyfer –
  - (a) trefniadau awdurdodau lleol ar gyfer osgoi a datrys anghytundebau (adran 68);
  - (b) gwasanaethau eirioli annibynnol (adran 69);



- (4) Provision is made for the plans to be prepared and maintained by governing bodies of maintained schools, the governing bodies of institutions in the further education sector or local authorities; and for the governing body or authority having the duty to maintain the plan to secure the additional learning provision contained in the plan.
- (5) Special provision is made for plans for looked after children (sections 15 to 19) and children and young people who are subject to a detention order and placed in certain kinds of youth detention accommodation (sections 39 to 45).
- (6) Provision is made requiring particular health bodies –
  - (a) to consider, on referral from a governing body or local authority, whether there is a relevant treatment or service they could provide that is likely to be of benefit in addressing a child’s or young person’s additional learning needs and, if so, to secure its provision (sections 20 and 21);
  - (b) to appoint a designated education clinical lead officer (section 61);
  - (c) to notify parents and local authorities where they form the opinion that a child under compulsory school age has, or probably has, additional learning needs (section 64).
- (7) Chapter 3 (sections 47 to 67) makes further provision for and in connection with functions related to meeting additional learning needs, including –
  - (a) a duty on local authorities to favour education in mainstream maintained schools for children with additional learning needs (section 51);
  - (b) provision changing the registration system for independent schools to require the Welsh Ministers to publish a list of the registered schools which indicates the type or types of additional learning provision that an independent school makes (section 54);
  - (c) provision limiting the power of local authorities to secure additional learning provision for children or young people at independent schools to registered independent schools (section 55);
  - (d) a duty on the Welsh Ministers to establish and maintain a list of independent special post-16 institutions and a provision limiting the power of local authorities to secure additional learning provision at such institutions to those on the list (section 56);
  - (e) a duty on governing bodies of maintained schools and institutions in the further education sector to appoint additional learning needs co-ordinators (section 60);
  - (f) a duty on health bodies, local authorities, maintained schools and other bodies to provide information and other help to local authorities that request it (section 65).
- (8) Chapter 4 (sections 68 to 81) makes provision about avoiding and resolving disagreements; it provides for –
  - (a) local authority arrangements for the avoidance and resolution of disagreements (section 68);
  - (b) independent advocacy services (section 69);

- (c) yr hawl i apelio i Dribiwnlys Addysg Cymru mewn cysylltiad â phenderfyniadau o ran pa un a oes gan blentyn neu berson ifanc anghenion dysgu ychwanegol ai peidio, cynnwys cynlluniau datblygu unigol a phenderfyniadau eraill sy'n ymwneud â chynlluniau (adrannau 70 a 72).
- (9) Mae Pennod 5 (adrannau 82 i 90) yn gwneud darpariaeth gyffredinol, gan gynnwys –
- (a) pŵer i Weinidogion Cymru i wneud rheoliadau ynghylch datgelu a defnyddio gwybodaeth (adran 82);
- (b) dyletswydd ar Weinidogion Cymru i wneud rheoliadau at ddiben rhoi effaith i Ran 2 mewn achos pan na fo gan riant plentyn, neu pan na fo gan berson ifanc, alluedd (adran 83);
- (c) darpariaeth i ddatgymhwysu dyletswyddau penodol i hysbysu plentyn neu i roi gwybod i blentyn, neu i gymryd camau yn dilyn cais gan blentyn, pan na fo gan y plentyn alluedd a phan na fo ganddo gyfaill achos (adran 84);
- (d) darpariaeth ynghylch cyfeillion achos ar gyfer plant nad oes ganddynt alluedd (adran 85).
- (10) Mae Rhan 3 (adrannau 91 i 94) yn parhau â Thribiwnlys Anghenion Addysgol Arbennig Cymru ac yn ei ailenwi'n Dribiwnlys Addysg Cymru.
- (11) Yn ogystal â'r awdurdodaeth a nodir ym Mhennod 4, mae gan y Tribiwnlys Addysg awdurdodaeth mewn perthynas â gwahaniaethu ar sail anabledd mewn ysgolion (am ddarpariaeth ynghylch hyn, gweler adran 116 o Ddeddf Cydraddoldeb 2010 (p. 15) ac Atodlen 17 i'r Ddeddf honno).
- (12) Mae Rhan 4 (adrannau 95 i 101) yn gwneud darpariaeth ynghylch ystyr "yn ardal" awdurdod lleol at ddibenion y Deddfau Addysg (adran 95) ac yn gwneud darpariaeth gyffredinol, gan gynnwys darpariaethau ynghylch dehongli sy'n gymwys at ddibenion y Ddeddf (adran 99).

## **RHAN 2**

### **ANGHENION DYSGU YCHWANEGOL**

#### **PENNOD 1**

##### **TERMAU ALLWEDDOL, Y COD A CHYFRANOGIAD**

###### *Termau allweddol*

## **2 Anghenion dysgu ychwanegol**

- (1) Mae gan berson anghenion dysgu ychwanegol os oes ganddo anhawster dysgu neu anabledd (pa un a yw'r anhawster dysgu neu'r anabledd yn deillio o gyflwr meddygol ai peidio) sy'n galw am ddarpariaeth ddysgu ychwanegol.
- (2) Mae gan blentyn sydd o'r oedran ysgol gorfodol neu berson sy'n hŷn na'r oedran hwnnw anhawster dysgu neu anabledd –
- (a) os yw'n cael anhawster sylweddol fwy i ddysgu na'r mwyafrif o'r rhai eraill sydd o'r un oedran, neu

- (c) rights of appeal to the Education Tribunal for Wales in respect of decisions as to whether or not a child or young person has additional learning needs, the contents of individual development plans and other decisions relating to plans (sections 70 and 72).
- (9) Chapter 5 (section 82 to 90) makes general provision, including—
  - (a) a power for the Welsh Ministers to make regulations about the disclosure and use of information (section 82);
  - (b) a duty on the Welsh Ministers to make regulations for the purpose of giving effect to Part 2 in a case where a parent of a child, or a young person, lacks capacity (section 83);
  - (c) provision for the disapplication of certain duties to inform or notify a child or to take action following a request by a child where the child lacks capacity and does not have a case friend (section 84);
  - (d) provision about case friends for children who lack capacity (section 85).
- (10) Part 3 (sections 91 to 94) continues the Special Educational Needs Tribunal for Wales and renames it the Education Tribunal for Wales.
- (11) In addition to the jurisdiction set out in Chapter 4, the Education Tribunal has jurisdiction in relation to disability discrimination in schools (for provision about this, see section 116 of the Equality Act 2010 (c. 15) and Schedule 17 to that Act).
- (12) Part 4 (sections 95 to 101) makes provision about the meaning of “in the area” of a local authority for the purposes of the Education Acts (section 95) and makes general provision, including provisions about interpretation that apply for the purposes of the Act (section 99).

## **PART 2**

### **ADDITIONAL LEARNING NEEDS**

#### **CHAPTER 1**

##### **KEY TERMS, CODE AND PARTICIPATION**

###### *Key terms*

## **2 Additional learning needs**

- (1) A person has additional learning needs if he or she has a learning difficulty or disability (whether the learning difficulty or disability arises from a medical condition or otherwise) which calls for additional learning provision.
- (2) A child of compulsory school age or person over that age has a learning difficulty or disability if he or she—
  - (a) has a significantly greater difficulty in learning than the majority of others of the same age, or

- (b) os oes ganddo anabledd at ddibenion Deddf Cydraddoldeb 2010 (p. 15) sy'n ei atal neu'n ei lesteirio rhag defnyddio cyfleusterau addysg neu hyfforddiant o fath a ddarperir yn gyffredinol ar gyfer eraill sydd o'r un oedran mewn ysgolion prif ffrwd a gynhelir neu sefydliadau prif ffrwd yn y sector addysg bellach.
- (3) Mae gan blentyn sydd o dan yr oedran ysgol gorfodol anhawster dysgu neu anabledd os yw'r plentyn yn debygol o fod o fewn is-adran (2) pan fydd o'r oedran ysgol gorfodol, neu y byddai'n debygol o fod felly pe na bai darpariaeth ddysgu ychwanegol yn cael ei gwneud.
- (4) Os yw'r iaith (neu'r ffurf ar iaith) y mae neu y bydd person yn cael ei addysgu ynddi yn wahanol i iaith (neu ffurf ar iaith) sy'n cael neu sydd wedi cael ei defnyddio gartref, nid yw hynny'n unig yn golygu bod gan y person anhawster dysgu neu anabledd.
- (5) Mae'r adran hon yn gymwys at ddibenion y Ddeddf hon.

### **3 Darpariaeth ddysgu ychwanegol**

- (1) Ystyr "darpariaeth ddysgu ychwanegol" i berson sy'n dair oed neu'n hŷn yw darpariaeth addysgol neu ddarpariaeth hyfforddiant sy'n ychwanegol at yr hyn, neu sy'n wahanol i'r hyn, a wneir yn gyffredinol i eraill sydd o'r un oedran –
  - (a) mewn ysgolion prif ffrwd a gynhelir yng Nghymru,
  - (b) mewn sefydliadau prif ffrwd yn y sector addysg bellach yng Nghymru, neu
  - (c) mewn mannau yng Nghymru lle y darperir addysg feithrin.
- (2) Ystyr "darpariaeth ddysgu ychwanegol" i blentyn sy'n iau na thair oed yw darpariaeth addysgol o unrhyw fath.
- (3) Yn is-adran (1), ystyr "addysg feithrin" yw addysg sy'n addas i blentyn sydd wedi cyrraedd tair oed ond sydd o dan yr oedran ysgol gorfodol.
- (4) Caiff rheoliadau ddiwygio'r adran hon i roi cyfeiriadau at oedran gwahanol yn lle'r cyfeiriadau at dair oed.
- (5) Mae'r adran hon yn gymwys at ddibenion y Ddeddf hon.

#### *Cod ymarfer*

### **4 Cod anghenion dysgu ychwanegol**

- (1) Rhaid i Weinidogion Cymru ddyroddi cod ar anghenion dysgu ychwanegol ("y cod") a chânt ei ddiwygio o bryd i'w gilydd.
- (2) Caiff y cod gynnwys canllawiau ynghylch arfer swyddogaethau o dan y Rhan hon ac ynghylch unrhyw fater arall sy'n gysylltiedig â nodi a diwallu anghenion dysgu ychwanegol.
- (3) Rhaid i'r personau a ganlyn, wrth arfer swyddogaethau o dan y Rhan hon, roi sylw i unrhyw ganllawiau perthnasol sydd wedi eu cynnwys yn y cod –
  - (a) awdurdod lleol yng Nghymru neu yn Lloegr;
  - (b) corff llywodraethu ysgol a gynhelir yng Nghymru neu yn Lloegr;
  - (c) corff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu yn Lloegr;

- (b) has a disability for the purposes of the Equality Act 2010 (c. 15) which prevents or hinders him or her from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools or mainstream institutions in the further education sector.
- (3) A child under compulsory school age has a learning difficulty or disability if he or she is, or would be if no additional learning provision were made, likely to be within subsection (2) when of compulsory school age.
- (4) A person does not have a learning difficulty or disability solely because the language (or form of language) in which he or she is or will be taught is different from a language (or form of language) which is or has been used at home.
- (5) This section applies for the purposes of this Act.

### **3 Additional learning provision**

- (1) “Additional learning provision” for a person aged three or over means educational or training provision that is additional to, or different from, that made generally for others of the same age in –
  - (a) mainstream maintained schools in Wales,
  - (b) mainstream institutions in the further education sector in Wales, or
  - (c) places in Wales at which nursery education is provided.
- (2) “Additional learning provision” for a child aged under three means educational provision of any kind.
- (3) In subsection (1), “nursery education” means education suitable for a child who has attained the age of three but is under compulsory school age.
- (4) Regulations may amend this section to replace the references to the age of three with references to a different age.
- (5) This section applies for the purposes of this Act.

#### *Code of practice*

### **4 Additional learning needs code**

- (1) The Welsh Ministers must issue, and may from time to time revise, a code on additional learning needs (“the code”).
- (2) The code may include guidance about the exercise of functions under this Part and about any other matter connected with identifying and meeting additional learning needs.
- (3) The following persons must, when exercising functions under this Part, have regard to any relevant guidance contained in the code –
  - (a) a local authority in Wales or England;
  - (b) the governing body of a maintained school in Wales or England;
  - (c) the governing body of an institution in the further education sector in Wales or England;

- (d) perchennog Academi;
  - (e) tîm troseddwyr ifanc ar gyfer ardal yng Nghymru neu yn Lloegr;
  - (f) person a chanddo gyfrifoldeb am lety ieuenctid perthnasol yng Nghymru neu yn Lloegr;
  - (g) Bwrdd Iechyd Lleol;
  - (h) ymddiriedolaeth GIG;
  - (i) Bwrdd Comisiynu'r Gwasanaeth Iechyd Gwladol;
  - (j) grŵp comisiynu clinigol;
  - (k) ymddiriedolaeth sefydledig GIG;
  - (l) Awdurdod Iechyd Arbennig.
- (4) Gweler adran 153 o Ddeddf Addysg 2002 (p. 32) am ddarpariaeth ynghylch awdurdodau lleol yn ei gwneud yn ofynnol i ddarparwyr penodol addysg feithrin roi sylw i ganllawiau sydd wedi eu cynnwys yn y cod.
- (5) Caiff y cod osod gofynion—
- (a) ar awdurdod lleol mewn cysylltiad â threfniadau y mae rhaid iddo eu gwneud o dan adrannau 9 (cyngor a gwybodaeth), 68 (osgoi a datrys anghytundebau) a 69 (gwasanaethau eirioli annibynnol);
  - (b) ar gorff llywodraethu ysgol a gynhelir yng Nghymru neu sefydliad yn y sector addysg bellach yng Nghymru neu awdurdod lleol mewn cysylltiad â—
    - (i) penderfyniadau ynghylch a oes gan blentyn neu berson ifanc anghenion dysgu ychwanegol,
    - (ii) llunio, cynnwys, ffurf, adolygu a diwygio cynlluniau datblygu unigol, neu
    - (iii) peidio â chynnal cynlluniau datblygu unigol;
  - (c) ar gorff llywodraethu ysgol a gynhelir yng Nghymru neu sefydliad yn y sector addysg bellach yng Nghymru mewn cysylltiad â darparu gwybodaeth at ddibenion y Rhan hon.
- (6) Rhaid i'r cod gynnwys y gofynion a ganlyn ar gyrff llywodraethu ac awdurdodau lleol—
- (a) gofyniad o dan is-adran (5)(b)(i) i'r hysbysiad o benderfyniad nad oes gan blentyn neu berson ifanc anghenion dysgu ychwanegol gael ei roi yn unol ag adran 11(4), 13(3), 18(3) neu 40(4) cyn diwedd cyfnod o amser a bennir yn y cod, yn ddarostyngedig i unrhyw eithriadau i'r gofyniad a bennir yn y cod;
  - (b) gofyniad o dan is-adran (5)(b)(ii) i lunio cynllun datblygu unigol a rhoi copi ohono yn unol ag adran 22 neu 40(5) cyn diwedd cyfnod o amser a bennir yn y cod, yn ddarostyngedig i unrhyw eithriadau i'r gofyniad a bennir yn y cod;
  - (c) gofyniad o dan is-adran (5)(b)(ii) i ddefnyddio'r ffurf safonol briodol a nodir yn y cod ar gyfer cynllun datblygu unigol; a rhaid i'r cod gynnwys un neu ragor o ffurfiau safonol at y diben hwn.

- (d) the proprietor of an Academy;
  - (e) a youth offending team for an area in Wales or England;
  - (f) a person in charge of relevant youth accommodation in Wales or England;
  - (g) a Local Health Board;
  - (h) an NHS trust;
  - (i) the National Health Service Commissioning Board;
  - (j) a clinical commissioning group;
  - (k) an NHS foundation trust;
  - (l) a Special Health Authority.
- (4) For provision about local authorities requiring certain providers of nursery education to have regard to guidance contained in the code, see section 153 of the Education Act 2002 (c. 32).
- (5) The code may impose requirements –
- (a) on a local authority in respect of arrangements it must make under sections 9 (advice and information), 68 (avoidance and resolution of disagreements) and 69 (independent advocacy services);
  - (b) on a governing body of a maintained school in Wales or an institution in the further education sector in Wales or a local authority in respect of –
    - (i) decisions as to whether a child or young person has additional learning needs,
    - (ii) the preparation, content, form, review and revision of individual development plans, or
    - (iii) ceasing to maintain individual development plans;
  - (c) on a governing body of a maintained school in Wales or an institution in the further education sector in Wales in respect of the provision of information for the purposes of this Part.
- (6) The code must include the following requirements on governing bodies and local authorities –
- (a) a requirement under subsection (5)(b)(i) for the notification of a decision that a child or young person does not have additional learning needs to be given in accordance with section 11(4), 13(3), 18(3) or 40(4) before the end of a period of time specified in the code, subject to any exceptions to the requirement specified in the code;
  - (b) a requirement under subsection (5)(b)(ii) to prepare an individual development plan and give a copy of it in accordance with section 22 or 40(5) before the end of a period of time specified in the code, subject to any exceptions to the requirement specified in the code;
  - (c) a requirement under subsection (5)(b)(ii) to use the appropriate standard form set out in the code for an individual development plan; and the code must include one or more standard forms for this purpose.

- (7) Caiff y cod wneud –
- (a) darpariaeth wahanol at ddibenion gwahanol neu ar gyfer achosion gwahanol, a
  - (b) darpariaeth ddarfodol, drosiannol neu arbed,
- mewn perthynas â gofyniad a osodir o dan is-adran (5) neu ddarpariaeth a wneir o dan adran 7(4) neu 8(4).
- (8) Mae'r ddyletswydd a osodir gan is-adran (3) a dyletswydd a osodir o dan is-adran (5) hefyd yn gymwys i berson sy'n arfer swyddogaeth at ddiben cyflawni swyddogaethau o dan y Rhan hon gan y personau a grybwyllir yn is-adran (3).
- (9) Nid yw'r pŵer i osod gofynion o dan is-adran (5)(c) yn cynnwys y pŵer i osod gofynion mewn cysylltiad â datgelu data personol i berson nad yw'n destun y data, ac eithrio mewn achosion pan fo'r person yn rhiant i blentyn ac mai'r plentyn yw testun y data; ac yn yr is-adran hon mae i "data personol" a "testun y data" yr ystyr a roddir i "personal data" a "data subject" gan Ddeddf Diogelu Data 1998 (p. 29).
- (10) Rhaid i Dribiwnlys Addysg Cymru roi sylw i unrhyw ddarpariaeth yn y cod yr ymddengys iddo ei bod yn berthnasol i gwestiwn sy'n codi ar apêl o dan y Rhan hon.
- (11) Rhaid i Weinidogion Cymru gyhoeddi'r cod sydd mewn grym am y tro ar eu gwefan.

## **5 Y weithdrefn ar gyfer gwneud y cod**

- (1) Cyn dyroddi neu ddiwygio cod o dan adran 4, rhaid i Weinidogion Cymru ymgynghori â'r personau a ganlyn ar ddrafft o'r cod –
- (a) pob awdurdod lleol;
  - (b) corff llywodraethu pob ysgol a gynhelir yng Nghymru;
  - (c) corff llywodraethu pob sefydliad yn y sector addysg bellach yng Nghymru;
  - (d) Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru;
  - (e) Comisiynydd Plant Cymru;
  - (f) Comisiynydd y Gymraeg;
  - (g) y pwyllgor perthnasol yng Nghynulliad Cenedlaethol Cymru y mae ei gylch gorchwyl yn cynnwys addysg plant a phobl ifanc;
  - (h) unrhyw berson arall y mae Gweinidogion Cymru yn ystyried ei fod yn briodol.
- (2) Os yw Gweinidogion Cymru yn dymuno bwrw ymlaen â'r drafft (gydag addasiadau neu hebddynt) rhaid iddynt osod copi o'r drafft gerbron Cynulliad Cenedlaethol Cymru.
- (3) Ni chaiff Gweinidogion Cymru ddyroddi cod oni bai bod drafft ohono wedi ei gymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.
- (4) Os yw Cynulliad Cenedlaethol Cymru yn penderfynu cymeradwyo drafft o'r cod –
- (a) rhaid i Weinidogion Cymru ddyroddi'r cod ar ffurf y drafft, a
  - (b) daw'r cod i rym ar ddiwrnod a bennir gan Weinidogion Cymru mewn gorchymyn a wneir drwy offeryn statudol.
- (5) Caiff gorchymyn o dan is-adran (4)(b) –
- (a) pennu diwrnodau gwahanol at ddibenion gwahanol;



- (7) The code may make –
  - (a) different provision for different purposes or cases, and
  - (b) transitory, transitional or saving provision,in relation to a requirement imposed under subsection (5) or provision made under section 7(4) or 8(4).
- (8) The duty imposed by subsection (3) and a duty imposed under subsection (5) also apply to a person exercising a function for the purpose of the discharge of functions under this Part by the persons mentioned in subsection (3).
- (9) The power to impose requirements under subsection (5)(c) does not include the power to impose requirements in respect of the disclosure of personal data to a person who is not the data subject, except for cases where the person is the parent of a child and the data subject is the child; and in this subsection “personal data” and “data subject” have the meaning given by the Data Protection Act 1998 (c. 29).
- (10) The Education Tribunal for Wales must have regard to any provision of the code that appears to it to be relevant to a question arising on an appeal under this Part.
- (11) The Welsh Ministers must publish the code for the time being in force on their website.

## **5 Procedure for making the code**

- (1) Before issuing or revising a code under section 4, the Welsh Ministers must consult the following persons on a draft of the code –
  - (a) each local authority;
  - (b) the governing body of each maintained school in Wales;
  - (c) the governing body of each institution in the further education sector in Wales;
  - (d) Her Majesty’s Chief Inspector of Education and Training in Wales;
  - (e) the Children’s Commissioner for Wales;
  - (f) the Welsh Language Commissioner;
  - (g) the relevant committee of the National Assembly for Wales with remit for the education of children and young persons;
  - (h) any other person the Welsh Ministers consider appropriate.
- (2) If the Welsh Ministers wish to proceed with the draft (with or without modifications) they must lay a copy of the draft before the National Assembly for Wales.
- (3) The Welsh Ministers must not issue a code unless a draft of it is approved by a resolution of the National Assembly for Wales.
- (4) If the National Assembly for Wales resolves to approve a draft of the code –
  - (a) the Welsh Ministers must issue the code in the form of the draft, and
  - (b) the code comes into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (5) An order under subsection (4)(b) may –
  - (a) appoint different days for different purposes;

- (b) gwneud darpariaeth ddarfodol, drosiannol neu arbed mewn cysylltiad â dod â darpariaeth yn y cod i rym.
- (6) Mae cyfeiriadau yn yr adran hon at god yn cynnwys cod diwygiedig.
- (7) Caniateir i'r gofyniad i ymgynghori a osodir gan is-adran (1) gael ei fodloni drwy gynnal ymgynghoriad cyn y daw'r Rhan hon i rym.

*Cyfranogiad, confensiynau'r Cenhedloedd Unedig a mynediad at wybodaeth*

## **6 Dyletswydd i gynnwys a chefnogi plant, eu rhieni a phobl ifanc**

Rhaid i berson sy'n arfer swyddogaethau o dan y Rhan hon mewn perthynas â phlentyn neu berson ifanc roi sylw –

- (a) i safbwyntiau, dymuniadau a theimladau'r plentyn a'i riant neu'r person ifanc,
- (b) i bwysigrwydd bod y plentyn a'i riant neu'r person ifanc yn cymryd rhan mor llawn â phosibl mewn penderfyniadau sy'n ymwneud ag arfer y swyddogaeth o dan sylw, ac
- (c) i bwysigrwydd bod yr wybodaeth a'r gefnogaeth angenrheidiol yn cael eu darparu i'r plentyn ac i riant y plentyn neu i'r person ifanc er mwyn eu galluogi neu ei alluogi i gymryd rhan yn y penderfyniadau hynny.

## **7 Dyletswydd i roi sylw i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn**

- (1) Rhaid i gorff perthnasol sy'n arfer swyddogaethau o dan y Rhan hon mewn perthynas â phlentyn neu berson ifanc roi sylw dyladwy i Ran 1 o Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn a fabwysiadwyd ac a agorwyd i'w lofnodi, ei gadarnhau a'i dderbyn gan benderfyniad 44/25 y Cynulliad Cyffredinol ar 20 Tachwedd 1989 ("y Confensiwn").
- (2) At ddibenion is-adran (1), mae Rhan 1 o'r Confensiwn i gael ei drin fel pe bai'n cael effaith –
  - (a) fel y'i nodir am y tro yn Rhan 1 o'r Atodlen i Fesur Hawliau Plant a Phobl Ifanc (Cymru) 2011 (mccc 2), ond
  - (b) yn ddarostyngedig i unrhyw ddatganiad neu neilltuad fel y'u nodir am y tro yn Rhan 3 o'r Atodlen honno.
- (3) Nid yw is-adran (1) yn gwneud ystyriaeth benodol o'r Confensiwn yn ofynnol ar bob achlysur y caiff swyddogaeth ei harfer.
- (4) Caiff cod a ddyroddir o dan adran 4 wneud darpariaeth sy'n nodi'r hyn sy'n ofynnol er mwyn cyflawni'r ddyletswydd yn is-adran (1); ac mae is-adran (1) i gael ei dehongli yn unol ag unrhyw ddarpariaeth o'r fath.
- (5) Yn is-adran (1), ystyr "corff perthnasol" yw –
  - (a) awdurdod lleol;
  - (b) corff GIG.

- (b) make transitory, transitional or saving provision in connection with the coming into force of a provision in the code.
- (6) References in this section to a code include a revised code.
- (7) The requirement to consult imposed by subsection (1) may be satisfied by consultation undertaken before the coming into force of this Part.

*Participation, United Nations conventions and access to information*

**6 Duty to involve and support children, their parents and young people**

A person exercising functions under this Part in relation to a child or young person must have regard –

- (a) to the views, wishes and feelings of the child and the child’s parent or the young person,
- (b) to the importance of the child and the child’s parent or the young person participating as fully as possible in decisions relating to the exercise of the function concerned, and
- (c) to the importance of the child and the child’s parent or the young person being provided with the information and support necessary to enable participation in those decisions.

**7 Duty to have regard to the United Nations Convention on the Rights of the Child**

- (1) A relevant body exercising functions under this Part in relation to a child or young person must have due regard to Part 1 of the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 (“the Convention”).
- (2) For the purposes of subsection (1), Part 1 of the Convention is to be treated as having effect –
  - (a) as set out for the time being in Part 1 of the Schedule to the Rights of Children and Young Persons (Wales) Measure 2011 (nawm 2), but
  - (b) subject to any declaration or reservation as set out for the time being in Part 3 of that Schedule.
- (3) Subsection (1) does not require specific consideration of the Convention on each occasion that a function is exercised.’
- (4) A code issued under section 4 may make provision setting out what is required to discharge the duty in subsection (1); and subsection (1) is to be interpreted in accordance with any such provision.
- (5) In subsection (1), “relevant body” means –
  - (a) a local authority;
  - (b) an NHS body.

**8 Dyletswydd i roi sylw i Gonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau**

- (1) Rhaid i gorff perthnasol sy'n arfer swyddogaethau o dan y Rhan hon mewn perthynas â phlentyn neu berson ifanc anabl roi sylw dyladwy i Gonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau a'i brotocol dewisol a fabwysiadwyd ar 13 Rhagfyr 2006 gan benderfyniad A/RES/61/106 y Cynulliad Cyffredinol ac a agorwyd i'w lofnodi ar 30 Mawrth 2007 ("y Confensiwn").
- (2) Mae'r Confensiwn i'w drin fel petai iddo effaith yn ddarostyngedig i unrhyw ddatganiad neu neilltuad a wnaed gan Lywodraeth y Deyrnas Unedig ar ôl ei gadarnhau, ac eithrio pan fo'r datganiad neu'r neilltuad wedi ei dynnu'n ôl wedi hynny.
- (3) Nid yw is-adran (1) yn gwneud ystyriaeth benodol o'r Confensiwn yn ofynnol ar bob achlysur y caiff swyddogaeth ei harfer.
- (4) Caiff cod a ddyroddir o dan adran 4 wneud darpariaeth sy'n nodi'r hyn sy'n ofynnol er mwyn cyflawni'r ddyletswydd yn is-adran (1); ac mae is-adran (1) i gael ei dehongli yn unol ag unrhyw ddarpariaeth o'r fath.
- (5) Yn is-adran (1), ystyr "corff perthnasol" yw –
  - (a) awdurdod lleol;
  - (b) corff GIG.

**9 Cyngor a gwybodaeth**

- (1) Rhaid i awdurdod lleol wneud trefniadau i ddarparu gwybodaeth a chyngor i bobl ynghylch anghenion dysgu ychwanegol a'r system y gwneir darpariaeth ar ei chyfer gan y Rhan hon.
- (2) Wrth wneud trefniadau o dan is-adran (1), rhaid i awdurdod lleol roi sylw i'r egwyddor bod rhaid i wybodaeth a chyngor a ddarperir o dan y trefniadau gael eu darparu mewn modd diduedd.
- (3) Rhaid i awdurdod lleol gymryd camau rhesymol i wneud y trefniadau a wneir o dan yr adran hon, adrannau 68 (osgoi a datrys anghytundebau) a 69 (gwasanaethau eirioli annibynnol) yn hysbys i –
  - (a) plant a phobl ifanc yn ei ardal,
  - (b) rhieni plant yn ei ardal,
  - (c) plant y mae'n gofalu amdanynt sydd y tu allan i'w ardal,
  - (d) cyrff llywodraethu ysgolion a gynhelir yn ei ardal,
  - (e) cyrff llywodraethu sefydliadau yn y sector addysg bellach yn ei ardal,
  - (f) cyfeillion achos plant yn ei ardal, ac
  - (g) unrhyw bersonau eraill y mae'n ystyried eu bod yn briodol.
- (4) Pan fo corff llywodraethu ysgol a gynhelir wedi ei hysbysu am drefniadau o dan is-adran (3), rhaid iddo gymryd camau rhesymol i wneud y trefniadau yn hysbys i –
  - (a) disgyblion yr ysgol a'u rhieni, a
  - (b) cyfeillion achos y disgyblion.

**8 Duty to have regard to the United Nations Convention on the Rights of Persons with Disabilities**

- (1) A relevant body exercising functions under this Part in relation to a disabled child or young person must have due regard to the United Nations Convention on the Rights of Persons with Disabilities and its optional protocol adopted on 13 December 2006 by General Assembly resolution A/RES/61/106 and opened for signature on 30 March 2007 (“the Convention”).
- (2) The Convention is to be treated as having effect subject to any declaration or reservation made by the United Kingdom Government upon ratification, save where the declaration or reservation has subsequently been withdrawn.
- (3) Subsection (1) does not require specific consideration of the Convention on each occasion that a function is exercised.
- (4) A code issued under section 4 may make provision setting out what is required to discharge the duty in subsection (1); and subsection (1) is to be interpreted in accordance with any such provision.
- (5) In subsection (1), “relevant body” means –
  - (a) a local authority;
  - (b) an NHS body.

**9 Advice and information**

- (1) A local authority must make arrangements to provide people with information and advice about additional learning needs and the system for which provision is made by this Part.
- (2) In making arrangements under subsection (1), a local authority must have regard to the principle that information and advice provided under the arrangements must be provided in an impartial manner.
- (3) A local authority must take reasonable steps to make the arrangements made under this section, sections 68 (avoidance and resolution of disagreements) and 69 (independent advocacy services) known to –
  - (a) children and young people in its area,
  - (b) parents of children in its area,
  - (c) children it looks after who are outside its area,
  - (d) governing bodies of maintained schools in its area,
  - (e) governing bodies of institutions in the further education sector in its area,
  - (f) case friends of children in its area, and
  - (g) any other persons it considers appropriate.
- (4) Where the governing body of a maintained school is informed of arrangements under subsection (3), it must take reasonable steps to make the arrangements known to –
  - (a) its pupils and their parents, and
  - (b) case friends of its pupils.

- (5) Pan fo corff llywodraethu sefydliad yn y sector addysg bellach wedi ei hysbysu am drefniadau o dan is-adran (3), rhaid iddo gymryd camau rhesymol i wneud y trefniadau yn hysbys i fyfyrwyr y sefydliad.

## PENNOD 2

### CYNLLUNIAU DATBLYGU UNIGOL

#### *Llunio a chynnal cynlluniau datblygu unigol*

#### 10 Cynlluniau datblygu unigol

At ddibenion y Ddeddf hon, dogfen sy'n cynnwys y canlynol yw cynllun datblygu unigol –

- (a) disgrifiad o anghenion dysgu ychwanegol person;
- (b) disgrifiad o'r ddarpariaeth ddysgu ychwanegol y mae anhawster dysgu neu anabledd y person yn galw amdani;
- (c) unrhyw beth arall sy'n ofynnol neu sydd wedi ei awdurdodi gan neu o dan y Rhan hon.

#### 11 Dyletswydd i benderfynu: ysgolion a gynhelir a sefydliadau addysg bellach

- (1) Pan fo'n cael ei dwyn i sylw corff llywodraethu ysgol a gynhelir yng Nghymru neu pan fo'n ymddangos iddo fel arall y gall fod gan blentyn neu berson ifanc sy'n ddisgybl cofrestredig yn yr ysgol anghenion dysgu ychwanegol, rhaid iddo benderfynu a oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol, oni bai bod unrhyw un neu ragor o'r amgylchiadau yn is-adran (3) yn gymwys.
- (2) Pan fo'n cael ei dwyn i sylw corff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu pan fo'n ymddangos iddo fel arall y gall fod gan berson ifanc sydd wedi ymrestru'n fyfyrwr yn y sefydliad anghenion dysgu ychwanegol, rhaid iddo benderfynu a oes gan y person ifanc anghenion dysgu ychwanegol, oni bai bod unrhyw un neu ragor o'r amgylchiadau yn is-adran (3) yn gymwys.
- (3) Yr amgylchiadau yw –
  - (a) bod cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn neu'r person ifanc o dan y Rhan hon;
  - (b) bod y corff llywodraethu wedi penderfynu o'r blaen a oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol a bod y corff llywodraethu wedi ei fodloni –
    - (i) nad yw anghenion y plentyn neu'r person ifanc wedi newid yn sylweddol ers i'r penderfyniad hwnnw gael ei wneud, a
    - (ii) nad oes gwybodaeth newydd sy'n effeithio'n sylweddol ar y penderfyniad hwnnw;
  - (c) bod y penderfyniad yn ymwneud â pherson ifanc ac nad yw'r person ifanc yn cydsynio i'r penderfyniad gael ei wneud;

- (5) Where the governing body of an institution in the further education sector is informed of arrangements under subsection (3), it must take reasonable steps to make the arrangements known to its students.

## CHAPTER 2

### INDIVIDUAL DEVELOPMENT PLANS

#### *Preparing and maintaining individual development plans*

#### **10 Individual development plans**

For the purposes of this Act, an individual development plan is a document that contains –

- (a) a description of a person’s additional learning needs;
- (b) a description of the additional learning provision which the person’s learning difficulty or disability calls for;
- (c) anything else required or authorised by or under this Part.

#### **11 Duty to decide: maintained schools and further education institutions**

- (1) Where it is brought to the attention of, or otherwise appears to, the governing body of a maintained school in Wales that a child or young person who is a registered pupil at the school may have additional learning needs, it must decide whether the child or young person has additional learning needs, unless any of the circumstances in subsection (3) apply.
- (2) Where it is brought to the attention of, or otherwise appears to the governing body of an institution in the further education sector in Wales that a young person enrolled as a student at the institution may have additional learning needs, it must decide whether the young person has additional learning needs, unless any of the circumstances in subsection (3) apply.
- (3) The circumstances are –
  - (a) an individual development plan is being maintained for the child or young person under this Part;
  - (b) the governing body has previously decided whether the child or young person has additional learning needs and the governing body is satisfied that –
    - (i) the child’s or young person’s needs have not changed materially since that decision was made, and
    - (ii) there is no new information that materially affects that decision;
  - (c) the decision is about a young person and the young person does not consent to the decision being made;

- (d) bod y plentyn neu'r person ifanc yn ddisgybl cofrestredig neu'n fyfyrwr ymrestredig mewn sefydliad arall (a bod y sefydliad hwnnw yn ysgol neu'n sefydliad yn y sector addysg bellach) a bod awdurdod lleol yn gyfrifol am y plentyn neu'r person ifanc;
  - (e) bod awdurdod lleol yn Lloegr yn cynnal cynllun AIG ar gyfer y plentyn neu'r person ifanc.
- (4) Os yw'r corff llywodraethu yn penderfynu nad oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol rhaid iddo hysbysu'r plentyn neu'r person ifanc ac, yn achos plentyn, rhiant y plentyn am –
- (a) y penderfyniad, a
  - (b) y rhesymau dros y penderfyniad.
- (5) Nid yw'r adran hon yn gymwys i blentyn sy'n derbyn gofal gan awdurdod lleol (gweler adran 17 (dyletswydd i atgyfeirio mater i awdurdod sy'n gofalu am blentyn)), oni bai bod y plentyn yn ardal awdurdod lleol yn Lloegr.

## 12 **Dyletswyddau i lunio a chynnal cynlluniau: ysgolion a gynhelir a sefydliadau addysg bellach**

- (1) Os yw corff llywodraethu yn penderfynu o dan adran 11 fod gan blentyn neu berson ifanc anghenion dysgu ychwanegol, rhaid iddo –
- (a) llunio cynllun datblygu unigol ar ei gyfer, oni bai bod unrhyw un neu ragor o'r amgylchiadau yn is-adran (2) yn gymwys, a
  - (b) cynnal y cynllun, oni bai bod yr amgylchiadau ym mharagraff (b) neu (d) o is-adran (2) yn gymwys.
- (2) Yr amgylchiadau yw –
- (a) bod y corff llywodraethu yn ystyried bod gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol –
    - (i) a all alw am ddarpariaeth ddysgu ychwanegol na fyddai'n rhesymol i'r corff llywodraethu ei sicrhau,
    - (ii) na all y corff llywodraethu bennu eu graddau neu eu natur yn ddigonol, neu
    - (iii) na all y corff llywodraethu bennu darpariaeth ddysgu ychwanegol ar eu cyfer yn ddigonol,
 a bod y corff llywodraethu yn atgyfeirio achos y plentyn neu'r person ifanc i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc i'r awdurdod benderfynu yn ei gylch o dan adran 13(1);
  - (b) bod y cynllun yn ymwneud â pherson ifanc ac nad yw'r person ifanc yn cydsynio i'r cynllun gael ei lunio neu ei gynnal;
  - (c) bod y corff llywodraethu yn gofyn i awdurdod lleol yn Lloegr sicrhau asesiad o dan adran 39(1) o Ddeddf Plant a Theuluoedd 2014 (p. 6) a bod yr awdurdod, yn rhinwedd y cais neu fel arall, yn gyfrifol am y plentyn neu'r person ifanc (o fewn yr ystyr a roddir gan adran 24(1) o'r Ddeddf honno);



- (d) the child or young person is a registered pupil or an enrolled student at another institution (that institution being a school or an institution in the further education sector) and a local authority is responsible for him or her;
  - (e) a local authority in England maintains an EHC plan for the child or young person.
- (4) If the governing body decides that the child or young person does not have additional learning needs it must notify 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.
- (5) This section does not apply to a child who is looked after by a local authority (see section 17 (duty to refer a matter to an authority that looks after a child)), unless the child is in the area of a local authority in England.

**12 Duties to prepare and maintain plans: maintained schools and further education institutions**

- (1) If a governing body decides under section 11 that a child or young person has additional learning needs, it must –
- (a) prepare an individual development plan for him or her, unless any of the circumstances in subsection (2) apply, and
  - (b) maintain the plan, unless the circumstances in paragraph (b) or (d) of subsection (2) apply.
- (2) The circumstances are –
- (a) the governing body considers that the child or young person has additional learning needs –
    - (i) that may call for additional learning provision it would not be reasonable for the governing body to secure,
    - (ii) the extent or nature of which the governing body cannot adequately determine, or
    - (iii) for which the governing body cannot adequately determine additional learning provision,and the governing body refers the child's or young person's case to the local authority responsible for the child or young person to decide under section 13(1);
  - (b) the plan is about a young person and the young person does not consent to the plan being prepared or maintained;
  - (c) the governing body requests a local authority in England to secure an assessment under section 36(1) of the Children and Families Act 2014 (c. 6) and, by virtue of the request or otherwise, the authority is responsible for the child or young person (within the meaning given by section 24(1) of that Act);

- (d) bod awdurdod lleol yn Lloegr yn cynnal cynllun AIG ar gyfer y plentyn neu'r person ifanc.
- (3) Pan fo corff llywodraethu ysgol a gynhelir wedi ei gyfarwyddo i lunio a chynnal, neu i gynnal, cynllun datblygu unigol ar gyfer person o dan adran 14(2)(b), 14(4) neu 27(6)(a), rhaid i'r corff llywodraethu lunio a chynnal, neu gynnal, y cynllun (yn ôl y digwydd), oni bai bod yr amgylchiadau ym mharagraff (b) neu (d) o is-adran (2) yn gymwys.
- (4) Pan fo corff llywodraethu sefydliad yn y sector addysg bellach wedi cytuno i gais o dan adran 36(2) i ddod yn gyfrifol am gynnal cynllun datblygu unigol ar gyfer person ifanc, neu pan fo Gweinidogion Cymru wedi penderfynu o dan adran 36(4) y dylai'r corff llywodraethu gynnal y cynllun, rhaid i'r corff llywodraethu gynnal y cynllun oni bai bod yr amgylchiadau ym mharagraff (b) neu (d) o is-adran (2) yn gymwys.
- (5) Os yw'r corff llywodraethu, yn dilyn cais o dan is-adran (2)(c), yn cael ei hysbysu gan yr awdurdod lleol yn Lloegr nad yw'n ofynnol iddo sicrhau cynllun AIG ar gyfer y plentyn neu'r person ifanc, rhaid i'r corff llywodraethu lunio a chynnal cynllun datblygu unigol ar gyfer y plentyn neu'r person ifanc, oni bai bod yr amgylchiadau ym mharagraff (b) neu (d) o is-adran (2) yn gymwys.
- (6) Rhaid i gorff llywodraethu sy'n llunio neu'n cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc –
- (a) ystyried a ddylai ddarpariaeth ddysgu ychwanegol gael ei darparu yn Gymraeg i'r plentyn neu'r person ifanc, a
- (b) os yw'n penderfynu y dylai math penodol o ddarpariaeth ddysgu ychwanegol gael ei ddarparu yn Gymraeg, bennu yn y cynllun y dylai gael ei ddarparu yn Gymraeg.
- (7) Rhaid i gorff llywodraethu –
- (a) sicrhau'r ddarpariaeth ddysgu ychwanegol a ddisgrifir mewn cynllun datblygu unigol y mae'n ei gynnal o dan y Rhan hon, a
- (b) os yw'r cynllun yn pennu y dylai math penodol o ddarpariaeth ddysgu ychwanegol gael ei ddarparu yn Gymraeg, gymryd pob cam rhesymol i sicrhau ei fod yn cael ei ddarparu yn Gymraeg i'r plentyn neu'r person ifanc.

### **13 Dyletswydd i benderfynu: awdurdodau lleol**

- (1) Pan fo'n cael ei dwyn i sylw awdurdod lleol neu pan fo'n ymddangos iddo fel arall y gall fod gan blentyn neu berson ifanc y mae'n gyfrifol amdano anghenion dysgu ychwanegol, rhaid i'r awdurdod benderfynu a oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol, oni bai bod unrhyw un neu ragor o'r amgylchiadau yn is-adran (2) yn gymwys.
- (2) Yr amgylchiadau yw –
- (a) bod cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn neu'r person ifanc o dan y Rhan hon;
- (b) bod yr awdurdod lleol wedi penderfynu o'r blaen a oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol a'i fod wedi ei fodloni –
- (i) nad yw anghenion y plentyn neu'r person ifanc wedi newid yn sylweddol ers i'r penderfyniad hwnnw gael ei wneud, a

- (d) a local authority in England maintains an EHC plan for the child or young person.
- (3) Where a governing body of a maintained school has been directed to prepare and maintain, or to maintain, an individual development plan for a person under section 14(2)(b), 14(4) or 27(6)(a), the governing body must prepare and maintain, or maintain, the plan (as the case may be), unless the circumstances in paragraph (b) or (d) of subsection (2) apply.
- (4) Where a governing body of an institution in the further education sector has agreed to a request under section 36(2) to become responsible for maintaining an individual development plan for a young person, or where the Welsh Ministers have determined under section 36(4) that the governing body should maintain the plan, the governing body must maintain the plan unless the circumstances in paragraph (b) or (d) of subsection (2) apply.
- (5) If, following a request under subsection (2)(c), the governing body is notified by the local authority in England that it is not required to secure an EHC plan for the child or young person, the governing body must prepare and maintain an individual development plan for the child or young person, unless the circumstances in paragraph (b) or (d) of subsection (2) apply.
- (6) A governing body that prepares or maintains an individual development plan for a child or young person must –
- (a) consider whether additional learning provision should be provided to the child or young 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) A governing body must –
- (a) secure the additional learning provision described in an individual development plan it maintains under this Part, and
  - (b) if the plan specifies that a particular kind of additional learning provision should be provided in Welsh, take all reasonable steps to secure that it is provided to the child or young person in Welsh.

### **13 Duty to decide: local authorities**

- (1) Where it is brought to the attention of, or otherwise appears to, a local authority that a child or a young person for whom it is responsible may have additional learning needs, the authority must decide whether the child or young person has additional learning needs, unless any of the circumstances in subsection (2) apply.
- (2) The circumstances are –
- (a) an individual development plan is being maintained for the child or young person under this Part;
  - (b) the local authority has previously decided whether the child or young person has additional learning needs and it is satisfied that –
    - (i) the child's or young person's needs have not changed materially since that decision was made, and

- (ii) nad oes gwybodaeth newydd sy'n effeithio'n sylweddol ar y penderfyniad hwnnw;
- (c) bod adran 11(1) yn gymwys a bod yr awdurdod lleol wedi ei fodloni bod penderfyniad ynghylch pa un a oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol ai peidio yn cael ei wneud o dan yr adran honno;
- (d) bod y penderfyniad yn ymwneud â pherson ifanc ac nad yw'r person ifanc yn cydsynio i'r penderfyniad gael ei wneud;
- (e) bod y penderfyniad yn ymwneud â pherson ifanc –
  - (i) sy'n fyfyrwr ymrestredig mewn sefydliad yn y sector addysg bellach yng Nghymru, a
  - (ii) nad yw hefyd wedi ymrestru'n fyfyrwr mewn sefydliad arall yn y sector addysg bellach neu'n ddisgybl cofrestredig mewn ysgol,
 ac na wnaed cais mewn cysylltiad â'r person ifanc i'r awdurdod lleol o dan adran 12(2)(a).
- (3) Os yw'r awdurdod lleol yn penderfynu nad oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol rhaid iddo hysbysu'r plentyn neu'r person ifanc ac, yn achos plentyn, rhiant y plentyn, am –
  - (a) y penderfyniad, a
  - (b) y rhesymau dros y penderfyniad.
- (4) Nid yw'r adran hon yn gymwys i blentyn sy'n derbyn gofal gan awdurdod lleol (gweler adrannau 17 (dyletswydd i atgyfeirio mater i awdurdod sy'n gofalu am blentyn) ac 18 (dyletswydd i benderfynu a oes gan blentyn sy'n derbyn gofal anghenion dysgu ychwanegol)).

#### **14 Dyletswyddau i lunio a chynnal cynlluniau: awdurdodau lleol**

- (1) Mae'r ddyletswydd yn is-adran (2) yn gymwys os yw awdurdod lleol yn gyfrifol am blentyn neu berson ifanc ac –
  - (a) yn achos plentyn, os yw'r awdurdod lleol yn penderfynu o dan adran 13 fod gan y plentyn anghenion dysgu ychwanegol,
  - (b) yn achos person ifanc sy'n ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru neu sydd wedi ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yng Nghymru, os yw'r awdurdod lleol yn penderfynu o dan adran 13 fod gan y person ifanc anghenion dysgu ychwanegol, neu
  - (c) yn achos unrhyw berson ifanc arall, os yw'r awdurdod lleol –
    - (i) yn penderfynu o dan adran 13 fod gan y person ifanc anghenion dysgu ychwanegol, a
    - (ii) yn penderfynu yn unol â rheoliadau o dan adra 46 fod angen llunio a chynnal cynllun o dan yr adran hon ar gyfer y person ifanc i ddiwallu ei anghenion rhesymol am addysg neu hyfforddiant.
- (2) Rhaid i'r awdurdod lleol –
  - (a) llunio a chynnal cynllun datblygu unigol ar gyfer y plentyn hwnnw neu'r person ifanc hwnnw, neu

- (ii) there is no new information that materially affects that decision;
- (c) section 11(1) applies and the local authority is satisfied that the question of whether or not the child or young person has additional learning needs is being decided under that section;
- (d) the decision is about a young person and the young person does not consent to the decision being made;
- (e) the decision is about a young person who –
  - (i) is an enrolled student at an institution in the further education sector in Wales, and
  - (ii) is not also enrolled as a student at another institution in the further education sector or a registered pupil at a school,and no request in respect of the young person has been made to the local authority under section 12(2)(a).
- (3) If the local authority decides that the child or young person does not have additional learning needs it must notify 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) This section does not apply to a child who is looked after by a local authority (see sections 17 (duty to refer a matter to an authority that looks after a child) and 18 (duty to decide whether a looked after child has additional learning needs)).

#### **14 Duties to prepare and maintain plans: local authorities**

- (1) The duty in subsection (2) applies if a local authority is responsible for a child or young person and –
  - (a) in the case of a child the local authority decides under section 13 that the child has additional learning needs,
  - (b) in the case of a young person who is a registered pupil at a maintained school in Wales or enrolled as a student at an institution in the further education sector in Wales, the local authority decides under section 13 that the young person has additional learning needs, or
  - (c) in the case of any other young person, the local authority –
    - (i) decides under section 13 that the young person has additional learning needs, and
    - (ii) decides in accordance with regulations under section 46 that it is necessary to prepare and maintain a plan under this section for the young person to meet his or her reasonable needs for education or training.
- (2) The local authority must –
  - (a) prepare and maintain an individual development plan for that child or young person, or

- (b) os yw'r plentyn neu'r person ifanc yn ddisgybl cofrestredig, neu i fod yn ddisgybl cofrestredig, mewn ysgol a gynhelir yng Nghymru a bod yr awdurdod yn ystyried ei bod yn briodol—
- (i) llunio cynllun datblygu unigol a chyfarwyddo corff llywodraethu'r ysgol i gynnal y cynllun, neu
  - (ii) cyfarwyddo corff llywodraethu'r ysgol i lunio a chynnal cynllun.
- (3) Ond nid yw'r ddyletswydd yn is-adran (2) yn gymwys os yw'r cynllun yn ymwneud â pherson ifanc ac nad yw'r person ifanc yn cydsynio i'r cynllun gael ei lunio neu ei gynnal.
- (4) Caiff awdurdod lleol sy'n cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc sy'n ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru gyfarwyddo corff llywodraethu'r ysgol i gynnal y cynllun.
- (5) Rhaid i awdurdod leol sy'n llunio neu'n cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc, neu sy'n ailystyried cynllun o dan adran 27—
- (a) ystyried a ddylai darpariaeth ddysgu ychwanegol gael ei darparu yn Gymraeg i'r plentyn neu'r person ifanc, a
  - (b) os yw'n penderfynu y dylai math penodol o ddarpariaeth ddysgu ychwanegol gael ei ddarparu yn Gymraeg, bennu yn y cynllun y dylai gael ei ddarparu yn Gymraeg.
- (6) Os na ellir diwallu anghenion rhesymol plentyn neu berson ifanc am ddarpariaeth ddysgu ychwanegol oni bai bod awdurdod lleol hefyd yn sicrhau darpariaeth o'r math a grybwyllir yn is-adran (7), rhaid i'r awdurdod gynnwys disgrifiad o'r ddarpariaeth arall honno yn y cynllun.
- (7) Y mathau o ddarpariaeth yw—
- (a) lle mewn ysgol benodol neu sefydliad arall;
  - (b) bwyd a llety.
- (8) O ran y ddyletswydd yn is-adran (6)—
- (a) nid yw'n gymwys i le mewn ysgol benodol neu sefydliad arall nad yw'n ysgol a gynhelir yng Nghymru os nad yw'r person neu'r corff sy'n gyfrifol am dderbyniadau i'r ysgol neu'r sefydliad arall yn cydsynio;
  - (b) mae'n ddarostyngedig i'r dyletswyddau yn adrannau 55, 56(3) a 59.
- (9) Os yw'r ddyletswydd yn is-adran (6) yn gymwys i awdurdod lleol, ni chaiff roi cyfarwyddyd o dan is-adran (2)(b) neu (4).
- (10) Pan fo awdurdod lleol yn cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc, rhaid i'r awdurdod—
- (a) sicrhau'r ddarpariaeth ddysgu ychwanegol a ddisgrifir yn y cynllun,
  - (b) sicrhau unrhyw ddarpariaeth arall a ddisgrifir yn y cynllun yn unol ag is-adran (6), ac
  - (c) os yw'r cynllun yn pennu y dylai math penodol o ddarpariaeth ddysgu ychwanegol gael ei ddarparu yn Gymraeg, gymryd pob cam rhesymol i sicrhau ei fod yn cael ei ddarparu yn Gymraeg i'r plentyn neu'r person ifanc.

- (b) if the child or young person is, or is to be, a registered pupil at a maintained school in Wales and the authority considers it appropriate –
  - (i) prepare an individual development plan and direct the governing body of the school to maintain the plan, or
  - (ii) direct the governing body of the school to prepare and maintain a plan.
- (3) But the duty in subsection (2) does not apply if the plan is about a young person and the young person does not consent to the plan being prepared or maintained.
- (4) A local authority that maintains an individual development plan for a child or young person who is a registered pupil at a maintained school in Wales may direct the governing body of the school to maintain the plan.
- (5) A local authority that prepares or maintains an individual development plan for a child or young person, or reconsiders a plan under section 27, must –
  - (a) consider whether additional learning provision should be provided to the child or young 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.
- (6) If the reasonable needs of a child or young person for additional learning provision cannot be met unless a local authority also secures provision of the kind mentioned in subsection (7), the authority must include a description of that other provision in the plan.
- (7) The kinds of provision are –
  - (a) a place at a particular school or other institution;
  - (b) board and lodging.
- (8) The duty in subsection (6) –
  - (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.
- (9) If the duty in subsection (6) applies to a local authority, it may not give a direction under subsection (2)(b) or (4).
- (10) Where a local authority maintains an individual development plan for a child or a young person, the authority must –
  - (a) secure the additional learning provision described in the plan,
  - (b) secure any other provision described in the plan in accordance with subsection (6), and
  - (c) if the plan specifies that a particular kind of additional learning provision should be provided in Welsh, take all reasonable steps to secure that it is provided to the child or young person in Welsh.

*Darpariaeth ddysgu ychwanegol ar gyfer plant sy'n derbyn gofal***15 Termau allweddol**

- (1) Mae plentyn yn derbyn gofal gan awdurdod lleol –
  - (a) os nad yw'n hŷn na'r oedran ysgol gorfodol ac os yw'n derbyn gofal gan awdurdod lleol at ddibenion Rhan 6 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4) ("Deddf 2014"), a
  - (b) os nad yw'n berson sy'n cael ei gadw'n gaeth.
- (2) Caiff rheoliadau ragnodi categorïau o blant sy'n derbyn gofal nad ydynt i gael eu trin fel pe baent yn derbyn gofal gan awdurdod lleol at ddibenion y Ddeddf hon.
- (3) Ystyr "swyddog adolygu annibynnol" yw'r swyddog a benodir o dan adran 99 o Ddeddf 2014 ar gyfer achos plentyn.
- (4) Ystyr "cynllun addysg personol" yw'r cynllun sydd wedi ei gynnwys yn y cynllun gofal a chymorth a gynhelir ar gyfer plentyn sy'n derbyn gofal o dan adran 83(2A) o Ddeddf 2014.
- (5) Mae'r adran hon yn gymwys at ddibenion y Ddeddf hon.

**16 Diwygiadau i Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014**

- (1) Mae adran 83 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4) (cynlluniau gofal a chymorth) wedi ei diwygio fel a ganlyn.
- (2) Ar ôl is-adran (2) mewnosoder –
  - “(2A) Rhaid i gynllun gofal a chymorth ar gyfer plentyn gynnwys cofnod o'r trefniadau a wneir i ddiwallu anghenion y plentyn mewn perthynas ag addysg a hyfforddiant ("cynllun addysg personol").
  - (2B) Ond nid yw is-adran (2A) yn gymwys i blentyn os yw o fewn categori o blentyn sy'n derbyn gofal a ragnodir mewn rheoliadau, nad oes cynllun addysg personol i gael ei lunio ar ei gyfer.
  - (2C) Os –
    - (a) oes gan blentyn anghenion dysgu ychwanegol, a
    - (b) yw cynllun gofal a chymorth y plentyn yn cynnwys cynllun addysg personol,
 rhaid cynnwys unrhyw gynllun datblygu unigol a gynhelir ar gyfer y plentyn o dan adran 19 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 yn y cynllun addysg personol.
  - (2D) At ddibenion is-adran (2C) –
    - (a) ystyr "plentyn" yw plentyn nad yw'n hŷn na'r oedran ysgol gorfodol (o fewn yr ystyr a roddir i "compulsory school age" gan adran 8 o Ddeddf Addysg 1996 (p. 56));
    - (b) mae i "anghenion dysgu ychwanegol" yr ystyr a roddir gan adran 2 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018."



*Additional learning provision for looked after children*

**15 Key terms**

- (1) A child is looked after by a local authority if he or she –
  - (a) is not over compulsory school age and is looked after by a local authority for the purposes of Part 6 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (“the 2014 Act”), and
  - (b) is not a detained person.
- (2) Regulations may prescribe categories of looked after child who are not to be treated as looked after by a local authority for the purposes of this Act.
- (3) “Independent reviewing officer” means the officer appointed under section 99 of the 2014 Act for a child’s case.
- (4) “Personal education plan” means the plan that is included in the care and support plan maintained for a looked after child under section 83(2A) of the 2014 Act.
- (5) This section applies for the purposes of this Act.

**16 Amendments to the Social Services and Well-being (Wales) Act 2014**

- (1) Section 83 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (care and support plans) is amended as follows.
- (2) After subsection (2) insert –
  - “(2A) A care and support plan for a child must include a record of the arrangements made to meet the child’s needs in relation to education and training (a “personal education plan”).
  - (2B) But subsection (2A) does not apply to a child if he or she is within a category of looked after child prescribed in regulations, for whom no personal education plan is to be prepared.
  - (2C) If –
    - (a) a child has additional learning needs, and
    - (b) the child’s care and support plan includes a personal education plan,any individual development plan maintained for the child under section 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 must be incorporated within the personal education plan.
  - (2D) For the purposes of subsection (2C) –
    - (a) a “child” means a person not over compulsory school age (within the meaning given by section 8 of the Education Act 1996 (c. 56));
    - (b) “additional learning needs” has the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”

- (3) Yn is-adran (3), yn lle “y cynlluniau y mae’n eu cynnal o dan yr adran hon” rhodder “gynllun gofal a chymorth”.
- (4) Yn is-adran (4), yn lle “cynllun”, y tro cyntaf y mae’n ymddangos, rhodder “cynllun gofal a chymorth”.
- (5) Yn is-adran (5) –
- (a) ar y dechrau, mewnosoder “Yn ddarostyngedig i ddarpariaethau Rhan 2 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018,”;
  - (b) ym mharagraff (a), yn lle “cynlluniau o dan yr adran hon” rhodder “cynlluniau gofal a chymorth”;
  - (c) ym mharagraff (b), yn lle “mae’n rhaid i gynllun eu cynnwys” rhodder “mae cynllun gofal a chymorth i’w cynnwys (gan gynnwys pa bethau y mae cynllun addysg personol i’w cynnwys)”;
  - (d) ym mharagraff (c), yn lle “cynlluniau” rhodder “cynlluniau gofal a chymorth”.
- (6) Yn is-adran (7), yn lle “cynllun o dan yr adran hon” rhodder “cynllun gofal a chymorth”.
- (7) Yn is-adran (8), ym mharagraff (a), yn lle “cynllun o dan yr adran hon” rhodder “cynllun gofal a chymorth”.
- (8) Yn is-adran (9), yn lle “gynllun a gynhelir o dan yr adran hon” rhodder “gynllun gofal a chymorth”.
- (9) Ar ôl is-adran (9) mewnosoder –
- “(10) Mae cyfeiriadau yn is-adrannau (2A) i (9) at gynllun gofal a chymorth i’w dehongli fel cyfeiriadau at gynllun gofal a chymorth a lunnir neu a gynhelir o dan yr adran hon.”

## **17 Dyletswydd i atgyfeirio mater i awdurdod lleol sy’n gofalu am blentyn**

- (1) Mae is-adran (2) yn gymwys pan –
- (a) bo’n cael ei dwyn i sylw corff llywodraethu ysgol a gynhelir yng Nghymru neu pan fo’n ymddangos iddo fel arall y gall fod gan blentyn sy’n derbyn gofal sy’n ddisgybl cofrestredig yn yr ysgol anghenion dysgu ychwanegol, neu
  - (b) bo’n cael ei dwyn i sylw awdurdod lleol neu pan fo’n ymddangos iddo fel arall y gall fod gan blentyn y mae’n gyfrifol amdano, ond sy’n derbyn gofal gan awdurdod lleol arall, anghenion dysgu ychwanegol.
- (2) Rhaid i’r corff llywodraethu neu’r awdurdod lleol atgyfeirio’r mater i’r awdurdod lleol sy’n gofalu am y plentyn.

## **18 Dyletswydd i benderfynu a oes gan blentyn sy’n derbyn gofal anghenion dysgu ychwanegol**

- (1) Pan fo’n cael ei dwyn i sylw awdurdod lleol sy’n gofalu am blentyn neu pan fo’n ymddangos iddo fel arall y gall fod gan y plentyn anghenion dysgu ychwanegol, rhaid i’r awdurdod benderfynu a oes gan y plentyn anghenion dysgu ychwanegol, oni bai bod unrhyw un neu ragor o’r amgylchiadau yn is-adran (2) yn gymwys.
- (2) Yr amgylchiadau yw –
- (a) bod cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn o dan adran 19;

- (3) In subsection (3), for “under review the plans that it maintains under this section” substitute “a care and support plan under review”.
- (4) In subsection (4), for “plan”, the first time it appears, substitute “care and support plan”.
- (5) In subsection (5) –
  - (a) at the beginning, insert “Subject to the provisions of Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018,”;
  - (b) in paragraph (a), for “plans under this section” substitute “care and support plans”;
  - (c) in paragraph (b), for “plan is to contain” substitute “care and support plan is to contain (including what a personal education plan is to contain)”;
  - (d) in paragraph (c), for “plans” substitute “care and support plans”.
- (6) In subsection (7), for “a plan under this section” substitute “a care and support plan”.
- (7) In subsection (8), in paragraph (a), for “a plan under this section” substitute “a care and support plan”.
- (8) In subsection (9), for “plan maintained under this section” substitute “care and support plan”.
- (9) After subsection (9) insert –
  - (10) References in subsections (2A) to (9) to a care and support plan are to be interpreted as references to a care and support plan prepared or maintained under this section.”

**17 Duty to refer a matter to a local authority that looks after a child**

- (1) Subsection (2) applies where –
  - (a) it is brought to the attention of or otherwise appears to a governing body of a maintained school in Wales that a looked after child who is a registered pupil at the school may have additional learning needs, or
  - (b) it is brought to the attention of or otherwise appears to a local authority that a child for whom it is responsible, but who is looked after by another local authority, may have additional learning needs.
- (2) The governing body or local authority must refer the matter to the local authority that looks after the child.

**18 Duty to decide whether a looked after child has additional learning needs**

- (1) Where it is brought to the attention of, or otherwise appears to, a local authority that looks after a child that the child may have additional learning needs, it must decide whether the child has additional learning needs, unless any of the circumstances in subsection (2) apply.
- (2) The circumstances are –
  - (a) an individual development plan is being maintained for the child under section 19;

- (b) bod yr awdurdod lleol wedi penderfynu o'r blaen a oes gan y plentyn anghenion dysgu ychwanegol a bod yr awdurdod lleol wedi ei fodloni –
  - (i) nad yw anghenion y plentyn wedi newid yn sylweddol ers i'r penderfyniad hwnnw gael ei wneud, a
  - (ii) nad oes gwybodaeth newydd sy'n effeithio'n sylweddol ar y penderfyniad hwnnw;
- (c) bod y plentyn yn ardal awdurdod lleol yn Lloegr.
- (3) Os yw'r awdurdod lleol yn penderfynu nad oes gan y plentyn sy'n derbyn gofal anghenion dysgu ychwanegol rhaid iddo hysbysu'r plentyn, rhiant y plentyn a swyddog adolygu annibynnol y plentyn am –
  - (a) y penderfyniad, a
  - (b) y rhesymau dros y penderfyniad.

### **19 Dyletswyddau i lunio a chynnal cynlluniau ar gyfer plant sy'n derbyn gofal**

- (1) Mae'r ddyletswydd yn is-adran (2) yn gymwys os yw awdurdod lleol sy'n gofalu am blentyn wedi penderfynu o dan adran 18 fod gan blentyn sy'n derbyn gofal anghenion dysgu ychwanegol.
- (2) Rhaid i'r awdurdod lleol lunio a chynnal cynllun datblygu unigol ar gyfer y plentyn os yw'r plentyn yn ardal awdurdod lleol yng Nghymru.
- (3) Rhaid i awdurdod lleol sy'n llunio neu'n cynnal cynllun datblygu unigol ar gyfer plentyn y mae'n gofalu amdano –
  - (a) ystyried a ddylai darpariaeth ddysgu ychwanegol gael ei darparu yn Gymraeg i'r plentyn, a
  - (b) os yw'n penderfynu y dylai math penodol o ddarpariaeth ddysgu ychwanegol gael ei ddarparu yn Gymraeg, bennu yn y cynllun datblygu unigol y dylai gael ei ddarparu yn Gymraeg.
- (4) Os na ellir diwallu anghenion rhesymol y plentyn am ddarpariaeth ddysgu ychwanegol oni bai bod yr awdurdod lleol hefyd yn sicrhau darpariaeth o'r math a grybwyllir yn is-adran (5), rhaid i'r awdurdod gynnwys disgrifiad o'r ddarpariaeth arall honno yn y cynllun datblygu unigol.
- (5) Y mathau o ddarpariaeth yw –
  - (a) lle mewn ysgol benodol neu sefydliad arall;
  - (b) bwyd a llety.
- (6) O ran y ddyletswydd yn is-adran (4) –
  - (a) nid yw'n gymwys i le mewn ysgol benodol neu sefydliad arall nad yw'n ysgol a gynhelir yng Nghymru os nad yw'r person neu'r corff sy'n gyfrifol am dderbyniadau i'r ysgol neu'r sefydliad arall yn cydsynio;
  - (b) mae'n ddarostyngedig i'r dyletswyddau yn adrannau 55, 56(3) a 59.
- (7) Pan fo awdurdod lleol sy'n gofalu am blentyn yn cynnal cynllun datblygu unigol ar gyfer y plentyn, rhaid i'r awdurdod –
  - (a) sicrhau'r ddarpariaeth ddysgu ychwanegol a ddisgrifir yn y cynllun,

- (b) the local authority has previously decided whether the child has additional learning needs and the local authority is satisfied that –
  - (i) the child’s needs have not changed materially since that decision was made, and
  - (ii) there is no new information that materially affects that decision;
- (c) the child is in the area of a local authority in England.
- (3) If the local authority decides that the looked after child does not have additional learning needs it must notify the child, the child’s parent and the child’s independent reviewing officer of –
  - (a) the decision, and
  - (b) the reasons for the decision.

**19 Duties to prepare and maintain plans for looked after children**

- (1) The duty in subsection (2) applies if a local authority that looks after a child has decided under section 18 that a looked after child has additional learning needs.
- (2) The local authority must prepare and maintain an individual development plan for the child if the child is in the area of a local authority in Wales.
- (3) A local authority that prepares or maintains an individual development plan for a child it looks after must –
  - (a) consider whether additional learning provision should be provided to the child in Welsh, and
  - (b) if it decides that a particular kind of additional learning provision should be provided in Welsh, specify in the individual development plan that it should be provided in Welsh.
- (4) If the reasonable needs of the child for additional learning provision cannot be met unless the local authority also secures provision of the kind mentioned in subsection (5), the authority must include a description of that other provision in the individual development plan.
- (5) The kinds of provision are –
  - (a) a place at a particular school or other institution;
  - (b) board and lodging.
- (6) The duty in subsection (4) –
  - (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.
- (7) Where a local authority that looks after a child maintains an individual development plan for the child, the authority must –
  - (a) secure the additional learning provision described in the plan,

- (b) sicrhau unrhyw ddarpariaeth arall a ddisgrifir yn y cynllun yn unol ag is-adran (4), ac
  - (c) os yw'r cynllun yn pennu y dylai math penodol o ddarpariaeth ddysgu ychwanegol gael ei ddarparu yn Gymraeg, gymryd pob cam rhesymol i sicrhau ei fod yn cael ei ddarparu yn Gymraeg i'r plentyn.
- (8) Gweler adran 35 am ddarpariaeth ynghylch trosglwyddo dyletswyddau i gynnal cynlluniau datblygu unigol ar gyfer plant sydd eisoes â chynlluniau pan ydynt yn dod yn blant sy'n derbyn gofal.

*Darpariaeth ddysgu ychwanegol a chyrrff y GIG*

**20 Darpariaeth ddysgu ychwanegol: Byrddau Iechyd Lleol ac ymddiriedolaethau'r GIG**

- (1) Caiff y cyrrff a bennir yn is-adran (2) atgyfeirio mater i gorff GIG, gan ofyn iddo ystyried a oes unrhyw driniaeth berthnasol neu wasanaeth perthnasol sy'n debygol o fod o fudd o ran ymdrin ag anghenion dysgu ychwanegol plentyn neu berson ifanc.
- (2) Y cyrrff yw –
  - (a) pan fyddai'r atgyfeiriad yn ymwneud â phlentyn, neu â pherson ifanc sy'n ddisgybl cofrestredig mewn ysgol a gynhelir, awdurdod lleol;
  - (b) pan fyddai'r atgyfeiriad yn ymwneud â pherson ifanc nad yw'n ddisgybl cofrestredig mewn ysgol a gynhelir, y corff sy'n llunio neu'n cynnal cynllun datblygu unigol ar gyfer y person ifanc.
- (3) Ond ni chaiff corff wneud atgyfeiriad o dan is-adran (1) oni bai –
  - (a) ei fod wedi rhoi gwybod i'r plentyn neu i'r person ifanc ac, yn achos plentyn, i riant y plentyn, ei fod yn bwriadu gwneud yr atgyfeiriad,
  - (b) ei fod wedi rhoi cyfle i'r plentyn neu'r person ifanc ac, yn achos plentyn, i riant y plentyn, i drafod a ddylai'r atgyfeiriad gael ei wneud, ac
  - (c) ei fod wedi ei fodloni bod gwneud yr atgyfeiriad er lles pennaf y plentyn neu'r person ifanc.
- (4) Os caiff mater ei atgyfeirio i gorff GIG o dan yr adran hon, rhaid i'r corff GIG ystyried a oes triniaeth berthnasol neu wasanaeth perthnasol sy'n debygol o fod o fudd o ran ymdrin ag anghenion dysgu ychwanegol y plentyn neu'r person ifanc.
- (5) Os yw'r corff GIG yn nodi triniaeth neu wasanaeth o'r fath, rhaid iddo –
  - (a) sicrhau'r driniaeth neu'r gwasanaeth ar gyfer y plentyn neu'r person ifanc,
  - (b) penderfynu a ddylai'r driniaeth gael ei darparu neu a ddylai'r gwasanaeth gael ei ddarparu yn Gymraeg i'r plentyn neu'r person ifanc, ac
  - (c) os yw'n penderfynu y dylai'r driniaeth gael ei darparu neu y dylai'r gwasanaeth gael ei ddarparu yn Gymraeg i'r plentyn neu i'r person ifanc, gymryd pob cam rhesymol i sicrhau bod y driniaeth yn cael ei darparu neu fod y gwasanaeth yn cael ei ddarparu yn Gymraeg.
- (6) Yn yr adran hon, ac yn adran 21, ystyr "triniaeth berthnasol neu wasanaeth perthnasol" yw unrhyw driniaeth neu wasanaeth y byddai corff GIG fel arfer yn ei darparu neu yn ei ddarparu fel rhan o'r gwasanaeth iechyd cynhwysfawr yng Nghymru a barheir o dan adran 1(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42).

- (b) secure any other provision described in the plan in accordance with subsection (4), and
  - (c) if the plan specifies that a particular kind of additional learning provision should be provided in Welsh, take all reasonable steps to secure that it is provided to the child in Welsh.
- (8) See section 35 for provision about the transfer of duties to maintain individual development plans for children who already have plans when they become looked after.

*Additional learning provision and NHS bodies*

**20 Additional learning provision: Local Health Boards and NHS trusts**

- (1) The bodies specified in subsection (2) may refer a matter to an NHS body, asking it to consider whether there is any relevant treatment or service that is likely to be of benefit in addressing the additional learning needs of a child or young person.
- (2) The bodies are –
  - (a) where the referral would relate to a child, or to a young person who is a registered pupil at a maintained school, a local authority;
  - (b) where the referral would relate to a young person who is not a registered pupil at a maintained school, the body that prepares or maintains an individual development plan for the young person.
- (3) But a body may not make a referral under subsection (1) unless –
  - (a) it has informed the child or young person and, in the case of a child, the child’s parent, that it intends to make the referral,
  - (b) it has given the child or young person and, in the case of a child, the child’s parent, an opportunity to discuss whether the referral should be made, and
  - (c) it is satisfied that making the referral is in the best interests of the child or young person.
- (4) If a matter is referred to an NHS body under this section, the NHS body must consider whether there is a relevant treatment or service that is likely to be of benefit in addressing the child’s or young person’s additional learning needs.
- (5) If the NHS body identifies such a treatment or service, it must –
  - (a) secure the treatment or service for the child or young person,
  - (b) decide whether the treatment or service should be provided to the child or young person in Welsh, and
  - (c) if it decides that the treatment or service should be provided to the child or young person in Welsh, take all reasonable steps to secure that the treatment or service is provided in Welsh.
- (6) In this section, and in section 21, “relevant treatment or service” means any treatment or service that an NHS body would normally provide as part of the comprehensive health service in Wales continued under section 1(1) of the National Health Service (Wales) Act 2006 (c. 42).

**21 Cynlluniau datblygu unigol: Byrddau Iechyd Lleol ac ymddiriedolaethau'r GIG**

- (1) Os yw corff GIG yn nodi triniaeth berthnasol neu wasanaeth perthnasol sy'n debygol o fod o fudd o ran ymdrin ag anghenion dysgu ychwanegol plentyn neu berson ifanc yn dilyn atgyfeiriad o dan adran 20 rhaid iddo –
  - (a) rhoi gwybod i'r corff a atgyfeiriodd y mater am y driniaeth honno neu'r gwasanaeth hwnnw,
  - (b) os nad corff sy'n cynnal cynllun datblygu unigol ar gyfer y plentyn neu'r person ifanc a atgyfeiriodd y mater, roi gwybod i'r corff sy'n cynnal y cynllun datblygu unigol am y driniaeth honno neu'r gwasanaeth hwnnw, ac
  - (c) os yw'n ystyried y dylai'r driniaeth gael ei darparu neu y dylai'r gwasanaeth gael ei ddarparu yn Gymraeg i'r plentyn neu'r person ifanc, roi gwybod i'r personau a grybwyllir ym mharagraffau (a) a (b) y dylai'r driniaeth gael ei darparu neu y dylai'r gwasanaeth gael ei ddarparu yn Gymraeg.
- (2) Os nad yw corff GIG yn nodi triniaeth berthnasol neu wasanaeth perthnasol sy'n debygol o fod o fudd o ran ymdrin ag anghenion dysgu ychwanegol plentyn neu berson ifanc yn dilyn atgyfeiriad o dan adran 20 rhaid iddo –
  - (a) rhoi gwybod i'r corff a atgyfeiriodd y mater am y ffaith honno, a
  - (b) os nad corff sy'n cynnal cynllun datblygu unigol ar gyfer y plentyn neu'r person ifanc a atgyfeiriodd y mater, roi gwybod i'r corff sy'n cynnal y cynllun datblygu unigol am y ffaith honno.
- (3) Os yw corff GIG yn hysbysu corff sy'n cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc fod triniaeth berthnasol neu wasanaeth perthnasol yn debygol o fod o fudd o ran ymdrin ag anghenion dysgu ychwanegol plentyn neu berson ifanc, rhaid i'r corff sy'n cynnal y cynllun ddisgrifio'r driniaeth neu'r gwasanaeth yn y cynllun, gan bennu bod y driniaeth neu'r gwasanaeth yn ddarpariaeth ddysgu ychwanegol sydd i gael ei sicrhau gan y corff GIG.
- (4) Os yw corff GIG yn hysbysu corff sy'n cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc y dylai triniaeth berthnasol gael ei darparu neu y dylai gwasanaeth perthnasol gael ei ddarparu yn Gymraeg i blentyn neu berson ifanc, rhaid i'r corff sy'n cynnal y cynllun bennu yn y cynllun fod y driniaeth neu'r gwasanaeth yn ddarpariaeth ddysgu ychwanegol a ddylai gael ei darparu yn Gymraeg.
- (5) Os yw cynllun datblygu unigol yn pennu o dan yr adran hon fod darpariaeth ddysgu ychwanegol i gael ei sicrhau gan gorff GIG, nid yw'r dyletswyddau a ganlyn yn gymwys i'r ddarpariaeth ddysgu ychwanegol honno –
  - (a) dyletswydd corff llywodraethu i sicrhau darpariaeth o dan adran 12(7) (gan gynnwys y ddyletswydd i gymryd camau rhesymol i sicrhau darpariaeth yn Gymraeg);
  - (b) dyletswydd awdurdod lleol i sicrhau darpariaeth o dan adran 14(10)(a) a'r ddyletswydd i gymryd camau rhesymol i sicrhau darpariaeth yn Gymraeg o dan adran 14(10)(c);
  - (c) dyletswydd awdurdod lleol i sicrhau darpariaeth o dan adran 19(7)(a) a'r ddyletswydd i gymryd camau rhesymol i sicrhau darpariaeth yn Gymraeg o dan adran 19(7)(c).



**21 Individual development plans: Local Health Boards and NHS trusts**

- (1) If an NHS body identifies a relevant treatment or service that is likely to be of benefit in addressing a child's or young person's additional learning needs following a referral under section 20 it must –
  - (a) inform the body that made the referral of that treatment or service,
  - (b) if the referral was not made by a body that maintains an individual development plan for the child or young person, inform the body that maintains the individual development plan of that treatment or service, and
  - (c) if it considers that the treatment or service should be provided to the child or young person in Welsh, inform the persons mentioned in paragraphs (a) and (b) that the treatment or service should be provided in Welsh.
- (2) If an NHS body does not identify a relevant treatment or service that is likely to be of benefit in addressing a child's or young person's additional learning needs following a referral under section 20 it must –
  - (a) inform the body that made the referral of that fact, and
  - (b) if the referral was not made by a body that maintains an individual development plan for the child or young person, inform the body that maintains the individual development plan of that fact.
- (3) If an NHS body informs a body that maintains an individual development plan for a child or young person that there is a relevant treatment or service likely to be of benefit in addressing a child's or young person's additional learning needs, the body that maintains the plan must describe the treatment or service in the plan, specifying that it is additional learning provision to be secured by the NHS body.
- (4) If an NHS body informs a body that maintains an individual development plan for a child or young person that a relevant treatment or service should be provided to a child or young person in Welsh, the body that maintains the plan must specify in the plan that the treatment or service is additional learning provision that should be provided in Welsh.
- (5) If an individual development plan specifies under this section that additional learning provision is to be secured by an NHS body, the following duties do not apply to that additional learning provision –
  - (a) the duty of a governing body to secure provision under section 12(7) (including the duty to take reasonable steps to secure provision in Welsh);
  - (b) the duty of a local authority to secure provision under section 14(10)(a) and the duty to take reasonable steps to secure provision in Welsh under section 14(10)(c);
  - (c) the duty of a local authority to secure provision under section 19(7)(a) and the duty to take reasonable steps to secure provision in Welsh under section 19(7)(c).

- (6) Ni chaniateir i'r disgrifiad o'r ddarpariaeth ddysgu ychwanegol a bennir mewn cynllun o dan yr adran hon fel darpariaeth y mae corff GIG i'w sicrhau gael ei ddileu neu ei newid ond ar adolygiad o gynllun yn unol ag adran 23 neu 24 ac â chytundeb neu ar gais y corff GIG.
- (7) Os yw'r corff GIG, ar adolygiad o gynllun, yn gofyn i gorff llywodraethu neu awdurdod lleol sy'n cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc ddileu neu newid y disgrifiad o'r ddarpariaeth ddysgu ychwanegol a bennir yn y cynllun o dan yr adran hon fel darpariaeth y mae'r corff GIG i'w sicrhau, rhaid i'r corff llywodraethu neu'r awdurdod lleol gydymffurfio â'r cais.
- (8) Nid oes dim yn yr adran hon yn effeithio ar bŵer Tribiwnlys Addysg Cymru i wneud gorchymyn o dan y Rhan hon.
- (9) Os yw Tribiwnlys Addysg Cymru yn gorchymyn i gynllun datblygu unigol gael ei ddiwygio mewn perthynas â darpariaeth ddysgu ychwanegol a bennir o dan yr adran hon fel darpariaeth y mae corff GIG i'w sicrhau, nid yw'n ofynnol i gorff GIG sicrhau'r ddarpariaeth ddysgu ychwanegol ddiwygiedig oni bai ei fod yn cytuno i wneud hynny.
- (10) Rhaid i reoliadau ddarparu, pan fo corff GIG o dan ddyletswydd i roi gwybod o dan is-adran (1) neu (2), fod rhaid iddo gydymffurfio â'r ddyletswydd honno o fewn cyfnod rhagnodedig, oni bai bod eithriad rhagnodedig yn gymwys.

*Gwybodaeth am gynlluniau*

## **22 Darparu gwybodaeth am gynlluniau datblygu unigol**

- (1) Os yw corff llywodraethu neu awdurdod lleol yn llunio cynllun datblygu unigol ar gyfer plentyn neu berson ifanc, rhaid iddo roi copi o'r cynllun –
  - (a) i'r plentyn neu'r person ifanc, a
  - (b) os yw'r cynllun ar gyfer plentyn, i riant y plentyn.
- (2) Os yw corff llywodraethu neu awdurdod lleol yn dod yn gyfrifol am gynnal cynllun datblygu unigol a oedd gynt yn cael ei gynnal ar gyfer plentyn neu berson ifanc gan gorff arall, rhaid i'r corff llywodraethu neu'r awdurdod lleol –
  - (a) rhoi gwybod i'r plentyn neu'r person ifanc fod y corff llywodraethu neu'r awdurdod lleol wedi dod yn gyfrifol am gynnal y cynllun, a
  - (b) os yw'r cynllun ar gyfer plentyn, roi gwybod i riant y plentyn.
- (3) Os yw awdurdod lleol yn llunio cynllun datblygu unigol ar gyfer plentyn sy'n derbyn gofal neu'n dod yn gyfrifol am gynnal cynllun datblygu unigol ar gyfer plentyn sy'n derbyn gofal a oedd gynt yn cael ei gynnal ar gyfer y plentyn gan gorff arall, rhaid iddo roi copi o'r cynllun i swyddog adolygu annibynnol y plentyn hefyd.

*Adolygu cynlluniau*

## **23 Adolygu a diwygio cynlluniau datblygu unigol**

- (1) Rhaid i gorff llywodraethu neu awdurdod lleol y mae'n ofynnol iddo gynnal cynllun datblygu unigol ei adolygu cyn diwedd pob cyfnod adolygu.

- (6) The description of the additional learning provision specified in a plan under this section as provision an NHS body is to secure may only be removed or changed on review of a plan in accordance with section 23 or 24 and with the agreement or at the request of the NHS body.
- (7) If, on review of a plan, the NHS body requests a governing body or a local authority that maintains an individual development plan for a child or young person to remove or change the description of the additional learning provision specified in the plan under this section as provision the NHS body is to secure, the governing body or local authority must comply with the request.
- (8) Nothing in this section affects the power of the Education Tribunal for Wales to make an order under this Part.
- (9) If the Education Tribunal for Wales orders the revision of an individual development plan in relation to additional learning provision specified under this section as provision an NHS body is to secure, an NHS body is not required to secure the revised additional learning provision unless it agrees to do so.
- (10) Regulations must provide that where an NHS body is under a duty to inform under subsection (1) or (2), it must comply with that duty within a prescribed period, unless a prescribed exception applies.

*Information about plans*

**22 Provision of information about individual development plans**

- (1) If a governing body or a local authority prepares an individual development plan for a child or young person, it must give a copy of the plan –
  - (a) to the child or young person, and
  - (b) if the plan is for a child, to the child’s parent.
- (2) If a governing body or a local authority becomes responsible for maintaining an individual development plan that was previously being maintained for a child or young person by another body, the governing body or local authority must –
  - (a) inform the child or young person that it has become responsible for maintaining the plan, and
  - (b) if the plan is for a child, inform the child’s parent.
- (3) If a local authority prepares an individual development plan for a looked after child or becomes responsible for maintaining an individual development plan for a looked after child that was previously being maintained for the child by another body, it must also give a copy of the plan to the child’s independent reviewing officer.

*Review of plans*

**23 Review and revision of individual development plans**

- (1) A governing body or a local authority required to maintain an individual development plan must review it before the end of each review period.

- (2) Mae'r cyfnod adolygu cyntaf yn gyfnod o 12 mis sy'n dechrau â'r dyddiad y rhoddir copi o'r cynllun o dan adran 22.
- (3) Mae pob cyfnod adolygu dilynol yn gyfnod o 12 mis sy'n dechrau –
  - (a) â'r dyddiad yn ystod y cyfnod adolygu blaenorol y rhoddir copi o gynllun diwygiedig o dan is-adran (11) mewn perthynas â'r cyfnod adolygu hwnnw, neu
  - (b) pan na fo'r cynllun wedi ei ddiwygio yn y cyfnod adolygu blaenorol –
    - (i) â'r dyddiad yn ystod y cyfnod adolygu blaenorol hwnnw y rhoddir hysbysiad o benderfyniad o dan is-adran (10) mewn perthynas â'r cyfnod adolygu hwnnw, neu
    - (ii) â'r dyddiad yn ystod y cyfnod adolygu blaenorol hwnnw y rhoddir hysbysiad o benderfyniad o dan adran 27(4) mewn perthynas â'r cyfnod adolygu hwnnw.
- (4) Ond pan na fo'r un o'r dogfennau y cyfeirir atynt yn is-adran (3)(a) a (b) wedi ei rhoi yn ystod y cyfnod adolygu blaenorol, mae'r cyfnod adolygu dilynol yn gyfnod o 12 mis sy'n dechrau â'r diwrnod cyntaf ar ôl diwedd y cyfnod adolygu blaenorol hwnnw.
- (5) Pan fo'n ofynnol rhoi copi o gynllun, cynllun diwygiedig neu hysbysiad o benderfyniad i fwy nag un person, mae'r cyfeiriad yn is-adrannau (2) a (3) at y dyddiad y'i rhoddir yn gyfeiriad at y dyddiad y rhoddir y cynllun, y cynllun diwygiedig neu'r hysbysiad o benderfyniad gyntaf.
- (6) Mae'r ddyletswydd yn is-adran (1) i adolygu cynllun cyn diwedd cyfnod adolygu yn cael ei thrin fel pe bai wedi ei chyflawni os, cyn diwedd y cyfnod hwnnw –
  - (a) caiff y cynllun ei ailystyried gan awdurdod lleol o dan adran 27;
  - (b) yw Tribiwnlys Addysg Cymru yn gorchymyn i gorff llywodraethu neu awdurdod lleol ddiwygio'r cynllun, neu
  - (c) yn achos cynllun a gynhelir gan gorff llywodraethu ysgol a gynhelir, yw Tribiwnlys Addysg Cymru yn gorchymyn i awdurdod lleol adolygu'r cynllun.
- (7) Rhaid i gorff llywodraethu neu awdurdod lleol adolygu cynllun datblygu unigol y mae'n ofynnol iddo ei gynnal os –
  - (a) yw'r cynllun yn cynnwys darpariaeth ddysgu ychwanegol y mae'n ofynnol i gorff GIG ei sicrhau o dan adran 20, a
  - (b) yw'r corff GIG yn gofyn iddo adolygu'r cynllun.
- (8) Rhaid i gorff llywodraethu neu awdurdod lleol y mae'n ofynnol iddo gynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc adolygu'r cynllun os gofynnir iddo wneud hynny gan y plentyn, gan riant y plentyn neu gan y person ifanc, oni bai ei fod yn ystyried bod adolygiad yn ddiangen.
- (9) Caiff corff llywodraethu neu awdurdod lleol –
  - (a) adolygu cynllun datblygu unigol ar unrhyw adeg, a
  - (b) diwygio cynllun yn dilyn adolygiad.

- (2) The first review period is a period of 12 months starting with the date on which a copy of the plan is given under section 22.
- (3) Each subsequent review period is a period of 12 months starting with—
  - (a) the date during the preceding review period on which a copy of a revised plan is given under subsection (11) in relation to that review period, or
  - (b) where the plan has not been revised in the preceding review period—
    - (i) the date during that preceding review period on which notice of a decision is given under subsection (10) in relation to that review period, or
    - (ii) the date during that preceding review period on which notice of a decision is given under section 27(4) in relation to that review period.
- (4) But where none of the documents referred to in subsection (3)(a) and (b) has been given during the preceding review period, the subsequent review period is a period of 12 months starting with the first day after the end of that preceding review period.
- (5) Where a copy of a plan, revised plan or notice of decision is required to be given to more than one person, the reference in subsections (2) and (3) to the date on which it is given is a reference to the date on which the plan, revised plan or notice of decision is first given.
- (6) The duty in subsection (1) to review a plan before the end of a review period is treated as met if, before the end of that period—
  - (a) the plan is reconsidered by a local authority under section 27,
  - (b) the Education Tribunal for Wales orders a governing body or a local authority to revise the plan, or
  - (c) in the case of a plan maintained by the governing body of a maintained school, the Education Tribunal for Wales orders a local authority to review the plan.
- (7) A governing body or local authority must review an individual development plan it is required to maintain if—
  - (a) the plan includes additional learning provision that an NHS body is required to secure under section 20, and
  - (b) the NHS body asks it to review the plan.
- (8) A governing body or a local authority required to maintain an individual development plan for a child or young person must review the plan if a request is made to it by the child, the child's parent or the young person, unless it considers a review to be unnecessary.
- (9) A governing body or local authority may—
  - (a) review an individual development plan at any time, and
  - (b) revise a plan following a review.

- (10) Os yw corff llywodraethu neu awdurdod lleol yn penderfynu yn dilyn adolygiad (sy'n ofynnol neu sydd wedi ei awdurdodi gan neu o dan y Rhan hon) na ddylai'r cynllun gael ei ddiwygio rhaid iddo hysbysu'r plentyn neu'r person ifanc ac, yn achos plentyn, rhiant y plentyn am—
- (a) y penderfyniad, a
  - (b) y rhesymau dros y penderfyniad.
- (11) Os yw corff llywodraethu neu awdurdod lleol yn diwygio cynllun datblygu unigol (fel sy'n ofynnol neu sydd wedi ei awdurdodi gan neu o dan y Rhan hon), rhaid iddo roi copi o'r cynllun diwygiedig—
- (a) i'r plentyn neu i'r person ifanc, a
  - (b) os yw'r cynllun ar gyfer plentyn, i riant y plentyn.
- (12) Nid yw'r adran hon yn gymwys os yw cynllun datblygu unigol yn ymwneud â phlentyn sy'n derbyn gofal gan awdurdod lleol, oni bai bod y plentyn yn ardal awdurdod lleol yn Lloegr.

## **24 Adolygu a diwygio cynlluniau datblygu unigol ar gyfer plant sy'n derbyn gofal**

- (1) Rhaid i awdurdod lleol y mae'n ofynnol iddo gynnal cynllun datblygu unigol ar gyfer plentyn sy'n derbyn gofal adolygu'r cynllun cyn diwedd pob cyfnod adolygu.
- (2) Mae'r cyfnod adolygu cyntaf yn gyfnod o 12 mis sy'n dechrau â'r dyddiad y rhoddir copi o'r cynllun gyntaf o dan adran 22.
- (3) Mae pob cyfnod adolygu dilynol yn gyfnod o 12 mis sy'n dechrau—
  - (a) â'r dyddiad yn ystod y cyfnod adolygu blaenorol y rhoddir copi o gynllun diwygiedig gyntaf o dan is-adran (10) mewn perthynas â'r cyfnod adolygu hwnnw, neu
  - (b) pan na fo'r cynllun wedi ei ddiwygio yn y cyfnod adolygu blaenorol, â'r dyddiad yn ystod y cyfnod hwnnw y rhoddir hysbysiad o benderfyniad gyntaf o dan is-adran (9) mewn perthynas â'r cyfnod hwnnw.
- (4) Ond pan na fo'r naill ddogfen na'r llall o'r dogfennau y cyfeirir atynt yn is-adran (3)(a) a (b) wedi ei rhoi yn ystod y cyfnod adolygu blaenorol, mae'r cyfnod adolygu dilynol yn gyfnod o 12 mis sy'n dechrau â'r diwrnod cyntaf ar ôl diwedd y cyfnod adolygu blaenorol hwnnw.
- (5) Mae'r ddyletswydd yn is-adran (1) i adolygu cynllun cyn diwedd cyfnod adolygu yn cael ei thrin fel pe bai wedi ei chyflawni os yw Tribiwnlys Addysg Cymru, cyn diwedd y cyfnod hwnnw, yn gorchymyn i'r awdurdod lleol ddiwygio'r cynllun.
- (6) Rhaid i awdurdod lleol y mae'n ofynnol iddo gynnal cynllun datblygu unigol ar gyfer plentyn sy'n derbyn gofal adolygu'r cynllun os—
  - (a) yw'r cynllun yn cynnwys darpariaeth ddysgu ychwanegol y mae'n ofynnol i gorff GIG ei sicrhau o dan adran 20, a
  - (b) yw'r corff GIG yn gofyn i'r awdurdod lleol adolygu'r cynllun.

- (10) If a governing body or a local authority decides following a review (required or authorised by or under this Part) that the plan should not be revised it must notify 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.
- (11) If a governing body or a local authority revises an individual development plan (as required or authorised by or under this Part), it must give a copy of the revised plan to—
  - (a) the child or young person, and
  - (b) if the plan is for a child, the child's parent.
- (12) This section does not apply if an individual development plan relates to a child who is looked after by a local authority, unless the child is in the area of a local authority in England.

#### **24 Review and revision of individual development plans for looked after children**

- (1) A local authority required to maintain an individual development plan for a looked after child must review the plan before the end of each review period.
- (2) The first review period is a period of 12 months starting with the date on which a copy of the plan is first given under section 22.
- (3) Each subsequent review period is a period of 12 months starting with—
  - (a) the date during the preceding review period on which a copy of a revised plan is first given under subsection (10) in relation to that review period, or
  - (b) where the plan has not been revised in the preceding review period the date during that period on which notice of a decision is first given under subsection (9) in relation to that period.
- (4) But where neither document referred to in subsection (3)(a) and (b) has been given during the preceding review period, the subsequent review period is a period of 12 months starting with the first day after the end of that preceding review period.
- (5) The duty in subsection (1) to review a plan before the end of a review period is treated as met if, before the end of that period, the Education Tribunal for Wales orders the local authority to revise the plan.
- (6) A local authority required to maintain an individual development plan for a looked after child must review the plan if—
  - (a) the plan includes additional learning provision that an NHS body is required to secure under section 20, and
  - (b) the NHS body asks the local authority to review the plan.

- (7) Rhaid i awdurdod lleol y mae'n ofynnol iddo gynnal cynllun datblygu unigol ar gyfer plentyn sy'n derbyn gofal adolygu'r cynllun os gofynnir iddo wneud hynny gan y plentyn sy'n derbyn gofal neu gan riant y plentyn sy'n derbyn gofal, oni bai bod yr awdurdod yn ystyried bod adolygiad yn ddiangen.
- (8) Caiff awdurdod lleol—
- adolygu cynllun datblygu unigol ar unrhyw adeg, a
  - diwygio cynllun yn dilyn adolygiad.
- (9) Os yw awdurdod lleol yn penderfynu yn dilyn adolygiad (sy'n ofynnol neu sydd wedi ei awdurdodi gan neu o dan y Rhan hon neu gan neu o dan adran 83 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4)) na ddylai'r cynllun gael ei ddiwygio rhaid iddo hysbysu'r plentyn, riant y plentyn a swyddog adolygu annibynnol y plentyn am—
- y penderfyniad, a
  - y rhesymau dros y penderfyniad.
- (10) Os yw awdurdod lleol yn diwygio cynllun datblygu unigol plentyn sy'n derbyn gofal (fel sy'n ofynnol neu sydd wedi ei awdurdodi gan neu o dan y Rhan hon neu gan neu o dan adran 83 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4)), rhaid iddo roi copi o'r cynllun datblygu unigol diwygiedig i—
- y plentyn sy'n derbyn gofal,
  - rhiant y plentyn sy'n derbyn gofal, ac
  - swyddog adolygu annibynnol y plentyn sy'n derbyn gofal.

## **25 Perthynas cynlluniau datblygu unigol â dogfennau tebyg eraill**

Caiff corff llywodraethu neu awdurdod lleol—

- llunio, adolygu neu ddiwygio cynllun o dan y Rhan hon ar yr un pryd ag y mae ef neu gorff arall yn llunio, yn adolygu neu'n diwygio dogfen arall yn achos y person o dan sylw, a
- cynnwys y ddogfen arall yn y cynllun neu gynnwys y cynllun yn y ddogfen arall.

*Ailystyriaeth gan awdurdodau lleol o benderfyniadau a chynlluniau cyrff llywodraethu*

## **26 Ailystyriaeth gan awdurdodau lleol o benderfyniadau o dan adran 11(1)**

- (1) Mae is-adran (2) yn gymwys pan—
- bo corff llywodraethu ysgol a gynhelir wedi gwneud penderfyniad ynghylch disgybl cofrestredig o dan adran 11(1) neu wedi gwrthod gwneud penderfyniad o dan yr adran honno, a
  - bo'r plentyn neu'r person ifanc neu, yn achos plentyn, rhiant y plentyn yn gofyn i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc ailystyried y mater.
- (2) Rhaid i'r awdurdod lleol benderfynu a oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol.



- (7) A local authority required to maintain an individual development plan for a looked after child must review the plan if a request is made to it by the looked after child or the looked after child's parent, unless the authority considers a review to be unnecessary.
- (8) A local authority may –
  - (a) review an individual development plan at any time, and
  - (b) revise a plan following a review.
- (9) If a local authority decides following a review (required or authorised by or under this Part or by or under section 83 of the Social Services and Well-being (Wales) Act 2014 (anaw 4)) that the plan should not be revised it must notify the child, the child's parent and the child's independent reviewing officer of –
  - (a) the decision, and
  - (b) the reasons for the decision.
- (10) If a local authority revises a looked after child's individual development plan (as required or authorised by or under this Part or by or under section 83 of the Social Services and Well-being (Wales) Act 2014 (anaw 4)), it must give a copy of the revised individual development plan to –
  - (a) the looked after child,
  - (b) the looked after child's parent, and
  - (c) the looked after child's independent reviewing officer.

## **25 Relationship of individual development plans to other similar documents**

A governing body or local authority may –

- (a) prepare, review or revise a plan under this Part at the same time as it or another body is preparing, reviewing or revising another document in the case of the person concerned, and
- (b) include the other document in the plan or include the plan in the other document.

*Local authority reconsideration of governing body decisions and plans*

## **26 Reconsideration by local authorities of decisions under section 11(1)**

- (1) Subsection (2) applies where –
  - (a) a governing body of a maintained school has made a decision about a registered pupil under section 11(1) or has refused to make a decision under that section, and
  - (b) the child or young person or, in the case of a child, the child's parent requests the local authority responsible for the child or young person to reconsider the matter.
- (2) The local authority must decide whether the child or young person has additional learning needs.

- (3) Cyn iddo wneud ei benderfyniad, rhaid i'r awdurdod lleol roi gwybod i'r corff llywodraethu am y cais a gwahodd sylwadau oddi wrth y corff llywodraethu.
- (4) At ddibenion y Rhan hon, mae penderfyniad o dan is-adran (2) i gael ei drin fel penderfyniad o dan adran 13(1).
- (5) Pan fo awdurdod lleol yn gwneud penderfyniad o dan is-adran (2), mae penderfyniad blaenorol y corff llywodraethu o dan adran 11(1) yn peidio â chael effaith.

## **27 Ailystyriaeth gan awdurdodau lleol o gynlluniau a gynhelir o dan adran 12**

- (1) Mae is-adran (2) yn gymwys pan –
  - (a) bo corff llywodraethu ysgol a gynhelir yn cynnal cynllun datblygu unigol ar gyfer disgybl cofrestredig o dan adran 12(1) neu 12(3), a
  - (b) bo'r plentyn neu'r person ifanc neu, yn achos plentyn, rhiant y plentyn yn gofyn i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc ailystyried y cynllun gyda golwg ar ei ddiwygio.
- (2) Rhaid i'r awdurdod lleol ailystyried y cynllun a phenderfynu pa un ai i ddiwygio'r cynllun ai peidio.
- (3) Cyn iddo wneud ei benderfyniad, rhaid i'r awdurdod lleol roi gwybod i'r corff llywodraethu am y cais a gwahodd sylwadau oddi wrth y corff llywodraethu.
- (4) Os yw'r awdurdod lleol yn penderfynu na ddylai'r cynllun gael ei ddiwygio rhaid iddo hysbysu'r plentyn neu'r person ifanc ac, yn achos plentyn, rhiant y plentyn am –
  - (a) y penderfyniad, a
  - (b) y rhesymau dros y penderfyniad.
- (5) Rhaid i'r awdurdod lleol roi copi o hysbysiad o dan is-adran (4) i'r corff llywodraethu.
- (6) Os yw'r awdurdod lleol yn penderfynu y dylai'r cynllun gael ei ddiwygio, neu os gorchmynnir iddo ei ddiwygio gan Dribiwnlys Addysg Cymru, rhaid iddo lunio cynllun diwygiedig a naill ai –
  - (a) cyfarwyddo'r corff llywodraethu i'w gynnal, neu
  - (b) arfer y pŵer yn adran 28(6) i gymryd drosodd y cyfrifoldeb am gynnal y cynllun.
- (7) Rhaid i'r awdurdod lleol roi copi o'r cynllun diwygiedig i'r corff llywodraethu (am ddarpariaeth ynghylch eraill y mae rhaid rhoi copi iddynt, gweler adran 23(11)).

## **28 Dyletswydd awdurdodau lleol i benderfynu pa un ai i gymryd drosodd gynlluniau cyrff llywodraethu ai peidio**

- (1) Mae is-adran (3) yn gymwys pan –
  - (a) bo corff llywodraethu ysgol a gynhelir neu sefydliad yn y sector addysg bellach yn cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc o dan adran 12(1) neu 12(3), a
  - (b) bo unrhyw un neu ragor o'r personau a grybwyllir yn is-adran (2) yn gofyn i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc ystyried cymryd drosodd y cyfrifoldeb am gynnal y cynllun.

- (3) Before it makes its decision, the local authority must inform the governing body of the request and invite representations from the governing body.
- (4) For the purposes of this Part, a decision under subsection (2) is to be treated as a decision under section 13(1).
- (5) Where a local authority makes a decision under subsection (2), the previous decision of the governing body under section 11(1) ceases to have effect.

**27 Reconsideration by local authorities of plans maintained under section 12**

- (1) Subsection (2) applies where –
  - (a) a governing body of a maintained school maintains an individual development plan for a registered pupil under section 12(1) or 12 (3) , and
  - (b) the child or young person or, in the case of a child, the child’s parent requests the local authority responsible for the child or young person to reconsider the plan with a view to it being revised.
- (2) The local authority must reconsider the plan and decide whether or not to revise the plan.
- (3) Before it makes its decision, the local authority must inform the governing body of the request and invite representations from the governing body.
- (4) If the local authority decides that the plan should not be revised it must notify 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.
- (5) The local authority must give a copy of a notification under subsection (4) to the governing body.
- (6) If the local authority decides that the plan should be revised, or is ordered to revise it by the Education Tribunal for Wales, it must prepare a revised plan and either –
  - (a) direct the governing body to maintain it, or
  - (b) exercise the power in section 28(6) to take over responsibility for maintaining the plan.
- (7) The local authority must give a copy of the revised plan to the governing body (for provision about others to whom a copy must be given, see section 23(11)).

**28 Local authority duty to decide whether to take over governing body plans**

- (1) Subsection (3) applies where –
  - (a) a governing body of a maintained school or an institution in the further education sector maintains an individual development plan for a child or young person under section 12(1) or 12 (3) , and
  - (b) any of the persons mentioned in subsection (2) requests the local authority responsible for a child or young person to consider taking over responsibility for maintaining the plan.

- (2) Y personau yw –
  - (a) y plentyn neu'r person ifanc,
  - (b) yn achos plentyn, rhiant y plentyn, neu
  - (c) y corff llywodraethu.
- (3) Rhaid i'r awdurdod lleol benderfynu a ddylai gymryd drosodd y cyfrifoldeb am gynnal cynllun datblygu unigol a gynhelir gan y corff llywodraethu.
- (4) Pan fo corff llywodraethu yn gwneud y cais, rhaid i'r awdurdod lleol roi gwybod i'r plentyn neu'r person ifanc ac, yn achos plentyn, rhiant y plentyn am y cais a gwahodd sylwadau.
- (5) Pan fo plentyn, rhiant plentyn, neu berson ifanc yn gwneud y cais, rhaid i'r awdurdod lleol roi gwybod i'r corff llywodraethu am y cais a gwahodd sylwadau oddi wrth y corff llywodraethu.
- (6) Caiff awdurdod lleol benderfynu cymryd drosodd y cyfrifoldeb am gynnal cynllun a gynhelir gan gorff llywodraethu ysgol a gynhelir os yw'n penderfynu o dan adran 27(6) y dylai'r cynllun gael ei ddiwygio.
- (7) Rhaid i'r awdurdod lleol hysbysu'r plentyn neu'r person ifanc, yn achos plentyn, rhiant y plentyn, a'r corff llywodraethu am –
  - (a) penderfyniad o dan is-adran (3) neu (6), a
  - (b) y rhesymau dros y penderfyniad.
- (8) Os yw'r awdurdod lleol yn penderfynu cymryd drosodd y cyfrifoldeb am gynnal y cynllun –
  - (a) mae i gael ei drin fel pe bai'n cael ei gynnal gan yr awdurdod o dan adran 14 at ddibenion y Rhan hon, a
  - (b) nid yw'n ofynnol i'r corff llywodraethu ei gynnal, o'r dyddiad y rhoddir hysbysiad o dan is-adran (7).

**29 Amgylchiadau pan nad yw'r dyletswyddau yn adrannau 26(2), 27(2) a 28(3) yn gymwys**

- (1) Yn dilyn cais o dan adran 26(1)(b), 27(1)(b) neu 28(1)(b), nid yw'r ddyletswydd yn adran 26(2), 27(2) neu 28(3) (yn ôl y digwydd) yn gymwys mewn perthynas â phlentyn neu berson ifanc os yw unrhyw un neu ragor o'r amgylchiadau yn is-adran (2) yn gymwys.
- (2) Yr amgylchiadau yw –
  - (a) bod yr awdurdod lleol wedi gwneud penderfyniad o'r blaen o dan yr un adran mewn perthynas â'r un plentyn neu'r un person ifanc a'i fod wedi ei fodloni –
    - (i) nad yw anghenion y plentyn neu'r person ifanc wedi newid yn sylweddol ers y penderfyniad blaenorol, a
    - (ii) nad oes gwybodaeth newydd a fyddai'n effeithio'n sylweddol ar y penderfyniad hwnnw;
  - (b) bod y cais yn ymwneud â phlentyn sydd wedi dod yn blentyn sy'n derbyn gofal gan awdurdod lleol.

- (2) The persons are –
  - (a) the child or young person,
  - (b) in the case of a child, the child’s parent, or
  - (c) the governing body.
- (3) The local authority must decide whether it should take over responsibility for maintaining an individual development plan maintained by the governing body.
- (4) Where a governing body makes the request, the local authority must inform the child or young person and, in the case of a child, the child’s parent of the request and invite representations.
- (5) Where a child, a child’s parent or a young person makes the request, the local authority must inform the governing body of the request and invite representations from the governing body.
- (6) A local authority may decide to take over responsibility for maintaining a plan maintained by a governing body of a maintained school if it decides under section 27(6) that the plan should be revised.
- (7) The local authority must notify the child or young person, in the case of a child, the child’s parent, and the governing body of –
  - (a) a decision under subsection (3) or (6), and
  - (b) the reasons for the decision.
- (8) If the local authority decides to take over responsibility for maintaining the plan –
  - (a) it is to be treated as maintained by the authority under section 14 for the purposes of this Part, and
  - (b) the governing body is not required to maintain it,from the date on which notice is given under subsection (7).

**29 Circumstances in which the duties in sections 26(2), 27(2) and 28(3) do not apply**

- (1) Following a request under section 26(1)(b), 27(1)(b) or 28(1)(b), the duty in section 26(2), 27(2) or 28(3) (as the case may be) does not apply in relation to a child or young person if any of the circumstances in subsection (2) apply.
- (2) The circumstances are –
  - (a) the local authority has previously made a decision under the same section in relation to the same child or young person and it is satisfied that –
    - (i) the child’s or young person’s needs have not changed materially since the previous decision, and
    - (ii) there is no new information that would materially affect that decision.
  - (b) the request relates to a child who has become looked after by a local authority.

**30 Cofrestru neu ymrestru mewn mwy nag un sefydliad**

- (1) Mae is-adran (2) yn gymwys pan –
  - (a) bo'n cael ei dwyn i sylw corff llywodraethu ysgol a gynhelir yng Nghymru neu sefydliad yn y sector addysg bellach yng Nghymru, neu pan fo'n ymddangos iddo fel arall, y gall fod gan blentyn neu berson ifanc sy'n ddisgybl cofrestredig neu'n fyfyrwr ymrestredig yn yr ysgol neu'r sefydliad (yn ôl y digwydd) anghenion dysgu ychwanegol,
  - (b) bo'r plentyn neu'r person ifanc yn ddisgybl cofrestredig neu'n fyfyrwr ymrestredig mewn sefydliad arall (a bod y sefydliad hwnnw yn ysgol neu'n sefydliad yn y sector addysg bellach),
  - (c) bo addysg neu hyfforddiant i gael ei ddarparu i'r plentyn neu'r person ifanc ym mhob un o'r sefydliadau y mae'n ddisgybl cofrestredig neu'n fyfyrwr ymrestredig ynddynt,
  - (d) na fo cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn neu'r person ifanc, ac
  - (e) bo awdurdod lleol yn gyfrifol am y plentyn neu'r person ifanc.
- (2) Rhaid i'r corff llywodraethu atgyfeirio achos y plentyn neu'r person ifanc i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc er mwyn i'r awdurdod benderfynu yn ei gylch o dan adran 13(1).
- (3) Mae is-adrannau (4), (5) a (6) yn gymwys pan –
  - (a) bo corff llywodraethu ysgol a gynhelir yng Nghymru neu sefydliad yn y sector addysg bellach yng Nghymru yn cynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc,
  - (b) bo'r plentyn neu'r person ifanc yn dod yn ddisgybl cofrestredig neu'n fyfyrwr ymrestredig mewn sefydliad arall (a bod y sefydliad hwnnw yn ysgol neu'n sefydliad yn y sector addysg bellach),
  - (c) bo addysg neu hyfforddiant i gael ei ddarparu i'r plentyn neu'r person ifanc ym mhob un o'r sefydliadau y mae'n ddisgybl cofrestredig neu'n fyfyrwr ymrestredig ynddynt, a
  - (d) bo awdurdod lleol yn gyfrifol am y plentyn neu'r person ifanc.
- (4) Rhaid i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc gynnal y cynllun datblygu unigol yn lle'r corff llywodraethu ac mae'r cynllun i gael ei drin fel pe bai'n cael ei gynnal gan yr awdurdod lleol o dan adran 14 at ddibenion y Rhan hon.
- (5) Mae dyletswydd yr awdurdod lleol yn is-adran (4) yn cymryd effaith ar y diwrnod yr hysbysir yr awdurdod o dan is-adran (6) neu pan ddaw'n ymwybodol fel arall fod yr amgylchiadau a grybwyllir yn is-adran (3) yn gymwys.
- (6) Os yw corff llywodraethu ysgol a gynhelir yng Nghymru neu sefydliad yn y sector addysg bellach yng Nghymru yn ymwybodol bod yr amgylchiadau a ddisgrifir yn is-adran (3) yn gymwys mewn cysylltiad â phlentyn neu berson ifanc sy'n ddisgybl cofrestredig neu'n fyfyrwr ymrestredig yn yr ysgol neu'r sefydliad (yn ôl y digwydd), rhaid i'r corff llywodraethu roi gwybod i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc am y ffaith honno.

**30 Registration or enrolment at more than one institution**

- (1) Subsection (2) applies where—
  - (a) it is brought to the attention of, or otherwise appears to the governing body of a maintained school in Wales or an institution in the further education sector in Wales that a child or young person who is a registered pupil or enrolled student at the school or institution (as the case may be) may have additional learning needs,
  - (b) the child or young person is a registered pupil or an enrolled student at another institution (that institution being a school or an institution in the further education sector),
  - (c) the child or young person is to be provided with education or training at each of the institutions at which he or she is a registered pupil or an enrolled student,
  - (d) an individual development plan is not being maintained for the child or young person, and
  - (e) a local authority is responsible for the child or young person.
- (2) The governing body must refer the child's or young person's case to the local authority responsible for the child or young person for the authority to decide under section 13(1).
- (3) Subsections (4), (5) and (6) apply where—
  - (a) the governing body of a maintained school in Wales or an institution in the further education sector in Wales maintains an individual development plan for a child or young person,
  - (b) the child or young person becomes a registered pupil or an enrolled student at another institution (that institution being a school or an institution in the further education sector),
  - (c) the child or young person is to be provided with education or training at each of the institutions at which he or she is a registered pupil or an enrolled student, and
  - (d) a local authority is responsible for the child or young person.
- (4) The local authority responsible for the child or young person must maintain the individual development plan instead of the governing body and the plan is to be treated as maintained by the local authority under section 14 for the purposes of this Part.
- (5) The local authority's duty in subsection (4) takes effect on the day on which the authority is informed under subsection (6) or otherwise becomes aware that the circumstances mentioned in subsection (3) apply.
- (6) If the governing body of a maintained school in Wales or an institution in the further education sector in Wales is aware that the circumstances described in subsection (3) apply in respect of a child or young person who is a registered pupil or an enrolled student at the school or institution (as the case may be), the governing body must inform the local authority responsible for the child or young person of that fact.

- (7) Ni chaiff awdurdod lleol arfer ei bŵer i gyfarwyddo o dan is-adrannau (2)(b) neu (4) o adran 14 mewn perthynas â phlentyn neu berson ifanc sy'n ddisgybl cofrestredig neu'n fyfyrwr ymrestredig mewn mwy nag un sefydliad (pa un a yw'n ysgol neu'n sefydliad yn y sector addysg bellach) os yw addysg neu hyfforddiant i gael ei ddarparu iddo ym mhob un o'r sefydliadau hynny.

*Peidio â chynnal cynlluniau*

**31 Peidio â chynnal cynlluniau datblygu unigol**

- (1) Mae dyletswydd corff llywodraethu ysgol a gynhelir i lunio neu gynnal cynllun ar gyfer plentyn neu berson ifanc o dan adran 12 yn peidio â bod yn gymwys –
- (a) yn achos plentyn neu berson ifanc, os yw'n peidio â bod yn ddisgybl cofrestredig yn yr ysgol, neu
  - (b) yn achos plentyn, os yw'r plentyn yn dod yn blentyn sy'n derbyn gofal gan awdurdod lleol.
- (2) Mae'r ddyletswydd ar gorff llywodraethu sefydliad yn y sector addysg bellach o dan adran 12 i lunio neu gynnal cynllun ar gyfer person ifanc yn peidio â bod yn gymwys os yw'r plentyn ifanc yn peidio â bod wedi ymrestru'n fyfyrwr yn y sefydliad.
- (3) Mae'r ddyletswydd ar awdurdod lleol o dan adran 14 i lunio neu gynnal cynllun ar gyfer plentyn neu berson ifanc yn peidio â bod yn gymwys –
- (a) yn achos plentyn neu berson ifanc, os yw'r awdurdod lleol yn peidio â bod yn gyfrifol am y plentyn neu'r person ifanc, neu
  - (b) yn achos plentyn, os yw'r plentyn yn dod yn blentyn sy'n derbyn gofal gan awdurdod lleol.
- (4) Mae'r ddyletswydd ar awdurdod lleol i lunio neu gynnal cynllun ar gyfer plentyn sy'n derbyn gofal o dan adran 19 yn peidio â bod yn gymwys –
- (a) os yw'n peidio â bod yn blentyn sy'n derbyn gofal at ddibenion y Rhan hon (pa un ai am ei fod yn hŷn na'r oedran ysgol gorfodol neu fel arall (gweler adran 15)), neu
  - (b) os yw'n peidio â bod yn ardal awdurdod lleol yng Nghymru.
- (5) Pan fo gan gorff llywodraethu ysgol a gynhelir neu sefydliad yn y sector addysg bellach ddyletswydd o dan y Rhan hon i gynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc, caiff y corff llywodraethu beidio â chynnal y cynllun os yw'n penderfynu nad oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol mwyach.
- (6) Pan fo gan awdurdod lleol ddyletswydd o dan y Rhan hon i gynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc, caiff yr awdurdod beidio â chynnal y cynllun os yw'r awdurdod –
- (a) yn penderfynu nad oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol mwyach, neu



- (7) A local authority may not exercise its power to direct under subsections (2)(b) or (4) of section 14 in relation to a child or young person who is a registered pupil or an enrolled student at more than one institution (whether a school or an institution in the further education sector) if he or she is to be provided with education or training at each of those institutions.

*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 –
- (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) yn achos person ifanc nad yw'n ddisgybl cofrestredig mewn ysgol a gynhelir nac wedi ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yng Nghymru, yn penderfynu yn unol â rheoliadau o dan adran 46 nad oes angen cynnal y cynllun mwyach i ddiwallu anghenion rhesymol y person ifanc am addysg neu hyfforddiant.
- (7) Cyn i gorff llywodraethu benderfynu o dan is-adran (5), neu i awdurdod lleol benderfynu o dan is-adran (6), rhaid iddo hysbysu—
  - (a) y plentyn neu'r person ifanc,
  - (b) yn achos plentyn, rhiant y plentyn, ac
  - (c) yn achos plentyn sy'n derbyn gofal, swyddog adolygu annibynnol y plentyn ei fod yn bwriadu gwneud penderfyniad o'r fath.
- (8) Ar ôl i'r corff llywodraethu neu'r awdurdod lleol wneud ei benderfyniad, rhaid iddo hysbysu'r plentyn neu'r person ifanc, yn achos plentyn, rhiant y plentyn ac, yn achos plentyn sy'n derbyn gofal, swyddog adolygu annibynnol y plentyn am—
  - (a) y penderfyniad, a
  - (b) y rhesymau dros y penderfyniad.
- (9) A rhaid i gorff llywodraethu ysgol a gynhelir hefyd hysbysu'r plentyn neu'r person ifanc ac, yn achos plentyn, rhiant y plentyn am ei hawl i ofyn i'r awdurdod lleol ailystyried y mater o dan adran 32.
- (10) Gweler adran 44 (darpariaethau nad ydynt yn gymwys i blant a phersonau ifanc sy'n cael eu cadw'n gaeth) am amgylchiadau pellach pan fo'r ddyletswydd i gynnal cynllun yn peidio.

### **32 Ailystyriaeth gan awdurdodau lleol o benderfyniadau cyrff llywodraethu o dan adran 31**

- (1) Mae is-adran (2) yn gymwys pan—
  - (a) bo plentyn, rhiant plentyn, neu berson ifanc wedi ei hysbysu am benderfyniad corff llywodraethu ysgol a gynhelir o dan adran 31, a
  - (b) bo'r plentyn, rhiant y plentyn, neu'r person ifanc yn gwneud cais o fewn cyfnod rhagnodedig i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc, iddo benderfynu a ddylai dyletswydd y corff llywodraethu i gynnal y cynllun beidio.
- (2) Rhaid i'r awdurdod lleol benderfynu a ddylai'r corff llywodraethu beidio â chynnal y cynllun.
- (3) Rhaid i'r awdurdod lleol hysbysu'r corff llywodraethu a'r plentyn neu'r person ifanc ac, yn achos plentyn, rhiant y plentyn am—
  - (a) y penderfyniad, a
  - (b) y rhesymau dros y penderfyniad.
- (4) Os yw'r awdurdod lleol yn penderfynu y dylai'r cynllun gael ei gynnal, rhaid i'r corff llywodraethu barhau i gynnal y cynllun.

- (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.
- (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) Os yw'r awdurdod lleol yn penderfynu na ddylai'r cynllun gael ei gynnal, rhaid i'r corff llywodraethu beidio â chynnal y cynllun, yn ddarostyngedig i adran 33.

**33 Cyfyngiad ar beidio â chynnal cynlluniau er mwyn caniatáu ailystyriaeth neu apêl**

- (1) Ni chaiff corff llywodraethu ysgol a gynhelir beidio â chynnal cynllun datblygu unigol o dan adran 31(5) oni bai bod is-adran (2) neu (3) yn gymwys.
- (2) Mae'r is-adran hon yn gymwys os yw'r cyfnod a ragnodir o dan adran 32(1)(b) wedi dod i ben ac nad oes cais wedi ei wneud o dan yr adran honno.
- (3) Mae'r is-adran hon yn gymwys os yw'r awdurdod lleol wedi penderfynu o dan adran 32 y dylai'r cynllun beidio â chael ei gynnal ac—
- (a) bod y cyfnod a ragnodir o dan adran 75 y caniateir i apêl yn erbyn penderfyniad yr awdurdod lleol gael ei dwyn ynddo wedi dod i ben heb i apêl gael ei dwyn, neu
- (b) bod apêl wedi ei dwyn cyn diwedd y cyfnod a ragnodir o dan adran 75, a dyfarnwyd yn llawn arni.
- (4) Ni chaiff corff llywodraethu sefydliad yn y sector addysg bellach sy'n gweithredu o dan adran 31(5), neu awdurdod lleol sy'n gweithredu o dan adran 31(6), beidio â chynnal cynllun datblygu unigol tan pa un bynnag o'r canlynol sydd ddiweddaraf—
- (a) bod y cyfnod a ragnodir o dan adran 75 y caniateir i apêl yn erbyn penderfyniad i beidio â chynnal y cynllun gael ei dwyn ynddo wedi dod i ben heb i apêl gael ei dwyn, neu
- (b) bod apêl wedi ei dwyn cyn diwedd y cyfnod a ragnodir o dan adran 75, a dyfarnwyd yn llawn arni.

**34 Cynllun datblygu unigol ar ôl pen-blwydd person ifanc yn 25 oed**

- (1) Mae'r ddyletswydd ar gorff llywodraethu sefydliad yn y sector addysg bellach o dan adran 12, neu ar awdurdod lleol o dan adran 14, i lunio neu gynnal cynllun ar gyfer person ifanc yn peidio â bod yn gymwys ar ddiwedd y flwyddyn academaidd y bydd y person ifanc yn cyrraedd 25 oed ynddi.
- (2) Yn yr adran hon, ystyr "blwyddyn academaidd" yw—
- (a) mewn perthynas â pherson ifanc sy'n mynychu sefydliad yn y sector addysg bellach, cyfnod o 12 mis sy'n dod i ben ar 31 Gorffennaf, a
- (b) mewn perthynas ag unrhyw berson ifanc arall, cyfnod o 12 mis sy'n dod i ben ar y diwrnod y mae cwrs addysg neu hyfforddiant y person ifanc yn dod i ben neu'r diwrnod cyn i'r person ifanc gyrraedd 26 oed (pa un bynnag sydd gynharaf).

*Trosglwyddo cynlluniau*

**35 Trosglwyddo dyletswyddau i gynnal cynlluniau**

- (1) Mae is-adran (3) yn gymwys os—
- (a) yw plentyn neu berson ifanc yn dod yn ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru,

- (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).

*Transfer of plans*

**35 Transfer of duties to maintain plans**

- (1) Subsection (3) applies where –
  - (a) a child or young person becomes a registered pupil at a maintained school in Wales,

- (b) yn union cyn i'r plentyn neu'r person ifanc ddod yn ddisgybl cofrestredig yn yr ysgol, oedd cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn neu'r person ifanc o dan adran 12 gan gorff llywodraethu ysgol arall a gynhelir, ac
  - (c) na fwriedir i addysg neu hyfforddiant barhau i gael ei ddarparu i'r plentyn neu'r person ifanc yn yr ysgol arall honno.
- (2) Mae is-adran (3) hefyd yn gymwys os –
- (a) yw plentyn neu berson ifanc yn dod yn ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru cyn diwedd mis Medi mewn blwyddyn academaidd,
  - (b) oedd y plentyn neu'r person ifanc yn ddisgybl cofrestredig mewn ysgol arall a gynhelir yn ystod y flwyddyn academaidd flaenorol, ac
  - (c) oedd cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn neu'r person ifanc o dan adran 12 gan gorff llywodraethu'r ysgol arall ar ddiwrnod olaf yr addysg neu'r hyfforddiant a ddarperid ar ei gyfer yn yr ysgol.
- (3) Rhaid i gorff llywodraethu'r ysgol a grybwyllir yn is-adran (1)(a) neu (2) (a) gynnal y cynllun datblygu unigol; ac mae'r cynllun i gael ei drin fel pe bai'n cael ei gynnal o dan adran 12 at ddibenion y Rhan hon.
- (4) Mae is-adran (6) yn gymwys os –
- (a) yw person ifanc yn ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yng Nghymru cyn diwedd mis Medi mewn blwyddyn academaidd,
  - (b) oedd y person ifanc yn ddisgybl cofrestredig mewn ysgol a gynhelir yn ystod y flwyddyn academaidd flaenorol, ac
  - (c) oedd cynllun datblygu unigol yn cael ei gynnal ar gyfer y person ifanc o dan adran 12 gan gorff llywodraethu'r ysgol ar ddiwrnod olaf yr addysg neu'r hyfforddiant a ddarperid ar ei gyfer yn yr ysgol.
- (5) Yn is-adran (4)(a) a (b), ystyr "blwyddyn academaidd" yw unrhyw gyfnod rhwng 1 Awst a 31 Gorffennaf.
- (6) Rhaid i gorff llywodraethu'r sefydliad yn y sector addysg bellach yng Nghymru gynnal y cynllun datblygu unigol; ac mae'r cynllun i gael ei drin fel pe bai'n cael ei gynnal o dan adran 12 at ddibenion y Rhan hon.
- (7) Mae is-adran (8) yn gymwys os –
- (a) yw awdurdod lleol yn dod yn gyfrifol am blentyn neu berson ifanc, a
  - (b) yn union cyn i'r awdurdod ddod yn gyfrifol am y plentyn neu'r person ifanc, oedd cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn neu'r person ifanc o dan adran 14 gan awdurdod lleol arall.
- (8) Rhaid i'r awdurdod lleol a grybwyllir yn is-adran (7)(a) gynnal y cynllun datblygu unigol; ac mae'r cynllun i gael ei drin fel pe bai'n cael ei gynnal o dan adran 14 at ddibenion y Rhan hon.
- (9) Mae is-adran (10) yn gymwys os –
- (a) yw plentyn yn dod yn blentyn sy'n derbyn gofal gan awdurdod lleol, a
  - (b) yn union cyn i'r plentyn ddod yn blentyn sy'n derbyn gofal, oedd cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn o dan adran 12 neu 14.

- (b) immediately before the child or young person became a registered pupil at the school an individual development plan was being maintained for the child or young person under section 12 by the governing body of another maintained school, and
  - (c) it is not intended that the child or young person will continue to be provided with education or training at that other school.
- (2) Subsection (3) also applies where –
  - (a) a child or young person becomes a registered pupil at a maintained school in Wales before the end of September in an academic year,
  - (b) the child or young person was a registered pupil at another maintained school during the previous academic year, and
  - (c) an individual development plan was being maintained for the child or young person under section 12 by the governing body of the other school on the last day of education or training provided for him or her at the school.
- (3) The governing body of the school mentioned in subsection (1)(a) or (2)(a) must maintain the individual development plan; and the plan is to be treated as being maintained under section 12 for the purposes of this Part.
- (4) Subsection (6) applies where –
  - (a) a young person becomes enrolled as a student at an institution in the further education sector in Wales before the end of September in an academic year,
  - (b) the young person was a registered pupil at a maintained school during the previous academic year, and
  - (c) an individual development plan was being maintained for the young person under section 12 by the governing body of the school on the last day of education or training provided for him or her at the school.
- (5) In subsection (4)(a) and (b), “academic year” means any period from 1 August to 31 July.
- (6) The governing body of the institution in the further education sector in Wales must maintain the individual development plan; and the plan is to be treated as being maintained under section 12 for the purposes of this Part.
- (7) Subsection (8) applies where –
  - (a) a child or young person becomes the responsibility of a local authority, and
  - (b) immediately before the child or young person became the responsibility of the authority an individual development plan was being maintained for the child or young person under section 14 by another local authority.
- (8) The local authority mentioned in subsection (7)(a) must maintain the individual development plan; and the plan is to be treated as being maintained under section 14 for the purposes of this Part.
- (9) Subsection (10) applies where –
  - (a) a child becomes looked after by a local authority, and
  - (b) immediately before the child became looked after, an individual development plan was being maintained for the child under section 12 or 14.

- (10) Rhaid i'r awdurdod lleol sy'n gofalu am y plentyn gynnal y cynllun datblygu unigol; ac mae'r cynllun i gael ei drin fel pe bai'n cael ei gynnal o dan adran 19 at ddibenion y Rhan hon, gydag unrhyw ddarpariaeth a ddisgrifir yn y cynllun yn unol ag adran 14(6) yn cael ei thrin fel pe bai wedi ei disgrifio yn unol ag adran 19(4).
- (11) Mae is-adran (12) a (13) yn gymwys os—
- (a) yw person yn peidio â bod yn blentyn sy'n derbyn gofal (pa un ai am ei fod yn hŷn na'r oedran ysgol gorfodol neu fel arall (gweler adran 15)),
  - (b) yw awdurdod lleol yn gyfrifol am y plentyn neu'r person ifanc, ac
  - (c) yn union cyn peidio â bod yn blentyn sy'n derbyn gofal, oedd cynllun datblygu unigol yn cael ei gynnal ar gyfer y plentyn neu'r person ifanc o dan adran 19.
- (12) Rhaid i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc gynnal y cynllun datblygu unigol.
- (13) Mae'r cynllun i gael ei drin fel pe bai'n cael ei gynnal o dan adran 14 at ddibenion y Rhan hon, gydag unrhyw ddarpariaeth a ddisgrifir yn y cynllun yn unol ag adran 19(4) yn cael ei thrin fel pe bai wedi ei disgrifio yn unol ag adran 14(6).

### **36 Cais i drosglwyddo cynllun i gorff llywodraethu sefydliad addysg bellach**

- (1) Mae'r adran hon yn gymwys pan fo awdurdod lleol yn cynnal cynllun datblygu unigol ar gyfer person ifanc sydd wedi ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yng Nghymru.
- (2) Caiff yr awdurdod lleol ofyn i gorff llywodraethu'r sefydliad ddod yn gyfrifol am gynnal y cynllun.
- (3) Os yw'r corff llywodraethu yn methu â chytuno i'r cais o fewn cyfnod rhagnodedig, caiff yr awdurdod lleol atgyfeirio'r mater at Weinidogion Cymru.
- (4) Rhaid i Weinidogion Cymru benderfynu a ddylai corff llywodraethu'r sefydliad addysg bellach gynnal y cynllun.

### **37 Rheoliadau ynghylch trosglwyddo cynlluniau datblygu unigol**

- (1) Caiff rheoliadau wneud darpariaeth bellach ar gyfer y canlynol ac mewn cysylltiad â hwy—
  - (a) trosglwyddo o dan adran 35 ddyletswydd i gynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc;
  - (b) gwneud cais o dan adran 36, atgyfeiriad neu benderfyniad o dan yr adran honno a throsglwyddo dyletswydd i gynnal cynllun datblygu unigol ar gyfer person ifanc yn dilyn cais neu benderfyniad o'r fath;
  - (c) trosglwyddo o dan amgylchiadau rhagnodedig ddyletswydd i gynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc—
    - (i) o un awdurdod lleol i awdurdod lleol arall;
    - (ii) o gorff llywodraethu ysgol a gynhelir neu sefydliad yn y sector addysg bellach i gorff llywodraethu ysgol arall a gynhelir neu sefydliad arall yn y sector addysg bellach;



- (10) The local authority that looks after the child must maintain the individual development plan; and the plan is to be treated as being maintained under section 19 for the purposes of this Part, with any provision described in the plan in accordance with section 14(6) being treated as described in accordance with section 19(4).
- (11) Subsection (12) and (13) apply where –
  - (a) a person ceases to be a looked after child (whether because he or she is over compulsory school age or otherwise (see section 15)),
  - (b) a local authority is responsible for the child or young person, and
  - (c) immediately before ceasing to be looked after, an individual development plan was being maintained for the child or young person under section 19.
- (12) The local authority that is responsible for the child or young person must maintain the individual development plan.
- (13) The plan is to be treated as being maintained under section 14 for the purposes of this Part, with any provision described in the plan in accordance with section 19(4) being treated as described in accordance with section 14(6).

### **36 Request to transfer plan to governing body of further education institution**

- (1) This section applies where a local authority maintains an individual development plan for a young person who is enrolled as a student at an institution in the further education sector in Wales.
- (2) The local authority may request the governing body of the institution to become responsible for maintaining the plan.
- (3) If the governing body fails to agree to the request within a prescribed period, the local authority may refer the matter to the Welsh Ministers.
- (4) The Welsh Ministers must determine whether the governing body of the further education institution should maintain the plan.

### **37 Regulations about transfer of individual development plans**

- (1) Regulations may make further provision for, and in connection with –
  - (a) the transfer under section 35 of a duty to maintain an individual development plan for a child or young person;
  - (b) the making of a request under section 36, a reference or determination under that section and the transfer of a duty to maintain an individual development plan for a young person following such a request or determination;
  - (c) the transfer in prescribed circumstances of a duty to maintain an individual development plan for a child or young person from –
    - (i) a local authority to another local authority;
    - (ii) the governing body of a maintained school or institution in the further education sector to the governing body of another maintained school or institution in the further education sector;

- (iii) o gorff llywodraethu ysgol a gynhelir neu sefydliad yn y sector addysg bellach i awdurdod lleol;
  - (iv) o awdurdod lleol i gorff llywodraethu ysgol a gynhelir neu sefydliad yn y sector addysg bellach.
- (2) Yn yr adran hon, mae cyfeiriad at gorff llywodraethu ysgol a gynhelir neu sefydliad yn y sector addysg bellach yn gyfeiriad at gorff llywodraethu ysgol neu sefydliad yng Nghymru.

*Pwerau i gyfarwyddo cyrff llywodraethu ysgolion a gynhelir*

### **38 Pŵer awdurdod lleol i gyfarwyddo cyrff llywodraethu ysgolion a gynhelir**

Nid yw unrhyw bŵer awdurdod lleol o dan y Bennod hon i gyfarwyddo corff llywodraethu ysgol a gynhelir yn arferadwy mewn cysylltiad ag ysgol nad yw'r awdurdod yn ei chynnal oni bai bod yr awdurdod wedi ymgynghori â'r awdurdod lleol sy'n cynnal yr ysgol ynghylch ei fwriad i arfer y pŵer.

*Darpariaeth ddysgu ychwanegol ar gyfer personau sy'n cael eu cadw'n gaeth*

### **39 Ystyr "person sy'n cael ei gadw'n gaeth" a thermâu allweddol eraill**

- (1) At ddibenion y Ddeddf hon—

mae i "awdurdod cartref" yr ystyr a roddir i "home authority" gan adran 562J o Ddeddf Addysg 1996 (p. 56), yn ddarostyngedig i reoliadau o dan is-adran (2);

mae i "dechrau'r cyfnod o gadw person yn gaeth" yr ystyr a roddir i "beginning of the detention" gan adran 562J o Ddeddf Addysg 1996;

mae i "llety ieuenctid perthnasol" yr ystyr a roddir i "relevant youth accommodation" gan adran 562(1A)(b) o Ddeddf Addysg 1996;

ystyr "person sy'n cael ei gadw'n gaeth" ("*detained person*") yw plentyn neu berson ifanc—

(a) sy'n ddarostyngedig i orchymyn cadw (o fewn yr ystyr a roddir i "detention order" gan adran 562(1A)(a), (2) a (3) o Ddeddf Addysg 1996), a

(b) sy'n cael ei gadw'n gaeth mewn llety ieuenctid perthnasol yng Nghymru neu yn Lloegr,

ac mewn darpariaethau sy'n gymwys pan gaiff person ei ryddhau mae'n cynnwys person a oedd, yn union cyn ei ryddhau, yn berson a oedd yn cael ei gadw'n gaeth.

- (2) Caiff rheoliadau ddarparu—

(a) i baragraff (a) o'r diffiniad o "home authority" yn adran 562J(1) o Ddeddf Addysg 1996 (awdurdod cartref plentyn sy'n derbyn gofal) fod yn gymwys gydag addasiadau at ddibenion y Rhan hon;

(b) i ddarpariaeth mewn rheoliadau a wneir gan Weinidogion Cymru o dan adran 562J(4) o Ddeddf Addysg 1996 fod yn gymwys gydag addasiadau neu hebddynt at ddibenion y Rhan hon.

- (iii) the governing body of a maintained school or institution in the further education sector to a local authority;
  - (iv) a local authority to the governing body of a maintained school or institution in the further education sector.
- (2) In this section, a reference to the governing body of a maintained school or an institution in the further education sector is to the governing body of a school or institution in Wales.

*Powers to direct governing bodies of maintained schools*

### 38 Local authority power to direct governing bodies of maintained schools

Any power of a local authority under this Chapter to direct the governing body of a maintained school is not exercisable in respect of a school that the authority does not maintain unless the authority has consulted the local authority that maintains the school about its intention to exercise the power.

*Additional learning provision for detained persons*

### 39 Meaning of “detained person” and other key terms

- (1) For the purposes of this Act –

“beginning of the detention” (*“dechrau’r cyfnod o gadw person yn gaeth”*) has the meaning given by section 562J of the Education Act 1996 (c. 56);

“detained person” (*“person sy’n cael ei gadw’n gaeth”*) means a child or young person who is –

- (a) subject to a detention order (within the meaning given by section 562(1A) (a), (2) and (3) of the Education Act 1996), and

- (b) detained in relevant youth accommodation in Wales or England,

and in provisions applying on a person’s release includes a person who, immediately before release, was a detained person;

“home authority” (*“awdurdod cartref”*) has the meaning given by section 562J of the Education Act 1996, subject to regulations under subsection (2);

“relevant youth accommodation” (*“llety ieuenctid perthnasol”*) has the meaning given by section 562(1A)(b) of the Education Act 1996.

- (2) Regulations may provide for –

- (a) paragraph (a) of the definition of “home authority” in section 562J(1) of the Education Act 1996 (the home authority of a looked after child) to apply with modifications for the purposes of this Part;
- (b) provision in regulations made by the Welsh Ministers under section 562J(4) of the Education Act 1996 to apply with or without modifications for the purposes of this Part.

- 40 Dyletswydd i lunio cynlluniau datblygu unigol ar gyfer personau sy'n cael eu cadw'n gaeth**
- (1) Mae is-adran (2) yn gymwys pan fo'n cael ei dwyn i sylw awdurdod cartref yng Nghymru neu pan fo'n ymddangos iddo fel arall –
    - (a) y gall fod gan berson sy'n cael ei gadw'n gaeth anghenion dysgu ychwanegol, a
    - (b) nad oes cynllun datblygu unigol yn cael ei gadw gan awdurdod lleol o dan adran 42.
  - (2) Rhaid i'r awdurdod –
    - (a) penderfynu a oes gan y person sy'n cael ei gadw'n gaeth anghenion dysgu ychwanegol, a
    - (b) os yw'n penderfynu bod gan y person sy'n cael ei gadw'n gaeth anghenion dysgu ychwanegol, benderfynu yn unol â rheoliadau o dan adran 46 a fydd angen cynnal cynllun datblygu unigol ar gyfer y person sy'n cael ei gadw'n gaeth pan gaiff ei ryddhau er mwyn diwallu anghenion rhesymol y person sy'n cael ei gadw'n gaeth am addysg neu hyfforddiant.
  - (3) Cyn i'r awdurdod cartref wneud ei benderfyniad rhaid iddo wahodd y person a chanddo gyfrifoldeb am y llety ieuentid perthnasol i fod yn rhan o'r penderfyniad ac, os oes angen cynllun datblygu unigol, yn rhan o'r gwaith o lunio cynllun datblygu unigol.
  - (4) Os yw'r awdurdod cartref yn penderfynu nad oes gan y person sy'n cael ei gadw'n gaeth anghenion dysgu ychwanegol neu na fydd angen cynnal cynllun datblygu unigol ar gyfer y person sy'n cael ei gadw'n gaeth pan gaiff ei ryddhau, rhaid iddo hysbysu'r person sy'n cael ei gadw'n gaeth, rhiant person sy'n cael ei gadw'n gaeth sy'n blentyn, a'r person a chanddo gyfrifoldeb am y llety ieuentid perthnasol am y penderfyniad a'r rhesymau dros y penderfyniad.
  - (5) Os yw'r awdurdod cartref yn penderfynu bod gan berson sy'n cael ei gadw'n gaeth anghenion dysgu ychwanegol ac y bydd angen cynnal cynllun datblygu unigol ar gyfer y person sy'n cael ei gadw'n gaeth pan gaiff ei ryddhau, rhaid iddo –
    - (a) llunio cynllun datblygu unigol ar gyfer y person sy'n cael ei gadw'n gaeth, a
    - (b) rhoi copi o'r cynllun i'r person sy'n cael ei gadw'n gaeth, rhiant person sy'n cael ei gadw'n gaeth sy'n blentyn, a'r person a chanddo gyfrifoldeb am y llety ieuentid perthnasol.
  - (6) Os yw'r awdurdod cartref yn llunio cynllun datblygu unigol, rhaid iddo –
    - (a) penderfynu a ddylai darpariaeth ddysgu ychwanegol gael ei darparu yn Gymraeg i'r person sy'n cael ei gadw'n gaeth, a
    - (b) os yw'n penderfynu y dylai math penodol o ddarpariaeth ddysgu ychwanegol gael ei ddarparu yn Gymraeg, bennu yn y cynllun y dylai gael ei ddarparu yn Gymraeg.
  - (7) Os na fydd yn bosibl diwallu anghenion rhesymol y person sy'n cael ei gadw'n gaeth am ddarpariaeth ddysgu ychwanegol pan gaiff ei ryddhau oni bai bod yr awdurdod cartref hefyd yn sicrhau darpariaeth o'r math a grybwyllir yn is-adran (8), rhaid i'r awdurdod gynnwys disgrifiad o'r ddarpariaeth arall honno yn y cynllun.

**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.
- (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) Y mathau o ddarpariaeth yw –
- (a) lle mewn ysgol benodol neu sefydliad arall;
  - (b) bwyd a llety.
- (9) O ran y ddyletswydd yn is-adran (7) –
- (a) nid yw'n gymwys i le mewn ysgol benodol neu sefydliad arall nad yw'n ysgol a gynhelir yng Nghymru os nad yw'r person neu'r corff sy'n gyfrifol am dderbyniadau i'r ysgol neu'r sefydliad arall yn cydsynio;
  - (b) mae'n ddarostyngedig i'r dyletswyddau yn adrannau 55, 56(3) a 59.

#### **41 Amgylchiadau pan nad yw'r ddyletswydd yn adran 40(2) yn gymwys**

- (1) Nid yw'r ddyletswydd yn adran 40(2) yn gymwys os yw'r un neu'r llall o'r amgylchiadau yn is-adran (2) yn gymwys.
- (2) Yr amgylchiadau yw –
  - (a) bod y person sy'n cael ei gadw'n gaeth yn berson ifanc nad yw'n cydsynio i benderfyniad o dan adran 40(2)(a) gael ei wneud neu i gynllun gael ei lunio;
  - (b) bod yr awdurdod cartref wedi penderfynu o'r blaen a oes gan y person sy'n cael ei gadw'n gaeth anghenion dysgu ychwanegol a'i fod wedi ei fodloni –
    - (i) nad yw anghenion y person sy'n cael ei gadw'n gaeth wedi newid yn sylweddol ers i'r penderfyniad hwnnw gael ei wneud, a
    - (ii) nad oes gwybodaeth newydd sy'n effeithio'n sylweddol ar benderfyniad o dan adran 40(2)(a) neu (b).

#### **42 Dyletswydd i gadw cynlluniau datblygu unigol ar gyfer personau sy'n cael eu cadw'n gaeth**

- (1) Mae'r adran hon yn gymwys os oedd cynllun datblygu unigol yn cael ei gynnal ar gyfer person sy'n cael ei gadw'n gaeth yn union cyn dechrau'r cyfnod o gadw'r person yn gaeth –
  - (a) gan gorff llywodraethu ysgol a gynhelir yng Nghymru neu sefydliad yn y sector addysg bellach yng Nghymru o dan adran 12, neu
  - (b) gan awdurdod lleol yng Nghymru o dan adran 14 neu 19.
- (2) Mae'r adran hon hefyd yn gymwys pan fo cynllun datblygu unigol yn cael ei lunio o dan adran 40(5).
- (3) Os yw'r awdurdod cartref ar gyfer y person sy'n cael ei gadw'n gaeth yn awdurdod cartref yng Nghymru, rhaid i'r awdurdod cartref gadw'r cynllun datblygu unigol ar gyfer y person sy'n cael ei gadw'n gaeth yn ystod y cyfnod o gadw'r person yn gaeth mewn llety ieuenctid perthnasol.
- (4) Ond nid yw'r ddyletswydd yn is-adran (3) yn gymwys pan fo'r person sy'n cael ei gadw'n gaeth yn berson ifanc nad yw'n cydsynio i'r cynllun datblygu unigol gael ei gadw.

- (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.

**41 Circumstances in which the duty in section 40(2) does not apply**

- (1) The duty in section 40(2) does not apply if either of the circumstances in subsection (2) apply.
- (2) The circumstances are –
  - (a) the detained person is a young person who does not consent to a decision under section 40(2)(a) being made or to a plan being prepared;
  - (b) the home authority has previously decided whether the detained person has additional learning needs and it is satisfied that –
    - (i) the detained person's needs have not changed materially since that decision was made, and
    - (ii) there is no new information that materially affects a decision under section 40(2)(a) or (b).

**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) Nid yw'r ddyletswydd yn is-adran (3) yn gymwys ychwaith mewn perthynas â chynllun datblygu unigol a oedd yn cael ei gynnal gan gorff llywodraethu ysgol a gynhelir neu sefydliad yn y sector addysg bellach, neu gan awdurdod lleol ac eithrio'r awdurdod cartref, oni ddygir y ffaith bod y cynllun yn cael ei gynnal i sylw'r awdurdod cartref.
- (6) Rhaid i'r awdurdod cartref roi gwybod i'r person sy'n cael ei gadw'n gaeth a rhiant person sy'n cael ei gadw'n gaeth sy'n blentyn ei fod yn cadw cynllun datblygu unigol tra bo'r person yn cael ei gadw'n gaeth mewn llety ieuentid perthnasol.
- (7) Rhaid i'r awdurdod cartref roi copi o'r cynllun datblygu unigol i'r person a chanddo gyfrifoldeb am y llety ieuentid perthnasol.
- (8) Pan fo awdurdod cartref yn cadw cynllun datblygu unigol, rhaid iddo—
  - (a) trefnu i ddarpariaeth ddysgu ychwanegol briodol gael ei darparu i'r person sy'n cael ei gadw'n gaeth, a
  - (b) os yw'r cynllun yn pennu y dylai'r ddarpariaeth ddysgu ychwanegol gael ei darparu yn Gymraeg, gymryd pob cam rhesymol i sicrhau bod y ddarpariaeth ddysgu ychwanegol briodol yn cael ei darparu yn Gymraeg i'r person sy'n cael ei gadw'n gaeth.
- (9) Yn yr adran hon, ystyr "darpariaeth ddysgu ychwanegol briodol" yw—
  - (a) y ddarpariaeth ddysgu ychwanegol a bennir yn y cynllun datblygu unigol,
  - (b) os ymddengys i'r awdurdod cartref nad yw'n ymarferol i'r ddarpariaeth ddysgu ychwanegol a bennir yn y cynllun gael ei darparu, darpariaeth addysgol sy'n cyfateb mor agos â phosibl i'r ddarpariaeth ddysgu ychwanegol honno, neu
  - (c) os ymddengys i'r awdurdod cartref nad yw'r ddarpariaeth ddysgu ychwanegol a bennir yn y cynllun yn briodol mwyach ar gyfer y person sy'n cael ei gadw'n gaeth, darpariaeth ddysgu ychwanegol y mae'r awdurdod cartref yn ystyried ei bod yn briodol.

#### **43 Rhyddhau person sy'n cael ei gadw'n gaeth**

- (1) Mae is-adran (2) yn gymwys os—
  - (a) yw person sy'n cael ei gadw'n gaeth yn cael ei ryddhau,
  - (b) yw awdurdod lleol yng Nghymru yn gyfrifol am y person ar y dyddiad rhyddhau, ac
  - (c) oedd cynllun datblygu unigol yn cael ei gadw ar gyfer y person o dan adran 42 yn ystod y cyfnod o gadw'r person yn gaeth.
- (2) Rhaid i'r awdurdod lleol gynnal y cynllun; ac mae'r cynllun i gael ei drin fel pe bai'n cael ei gynnal o dan adran 14 at ddibenion y Rhan hon, gydag unrhyw ddarpariaeth a ddisgrifir yn y cynllun yn unol ag adran 19(4) neu 40(7) yn cael ei thrin fel pe bai wedi ei disgrifio yn unol ag adran 14(6).
- (3) Ond mae is-adran (4) yn gymwys yn lle is-adran (2)—
  - (a) os yw'r person sydd wedi ei ryddhau yn blentyn, a
  - (b) os yw'r plentyn, yn union wedi iddo gael ei ryddhau, yn blentyn sy'n derbyn gofal gan awdurdod lleol yng Nghymru.



- (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 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.

### **43 Release of a detained person**

- (1) Subsection (2) applies where—
  - (a) a detained person is released,
  - (b) on the release date, a local authority in Wales is responsible for the person, and
  - (c) an individual development plan was kept for the person under section 42 during the detention.
- (2) The local authority must maintain the plan; and the plan is to be treated as maintained under section 14 for the purposes of this Part, with any provision described in the plan in accordance with section 19(4) or 40(7) being treated as described in accordance with section 14(6).
- (3) But subsection (4) applies instead of subsection (2) if—
  - (a) the person who has been released is a child, and
  - (b) immediately on release, the child is looked after by a local authority.

- (4) Rhaid i'r awdurdod lleol sy'n gofalu am y plentyn gynnal y cynllun; ac mae'r cynllun i gael ei drin fel pe bai'n cael ei gynnal o dan adran 19 at ddibenion y Rhan hon, gydag unrhyw ddarpariaeth a ddisgrifir yn y cynllun yn unol ag adran 14(6) neu 40(7) yn cael ei thrin fel pe bai wedi ei disgrifio yn unol ag adran 19(4).

**44 Darpariaethau penodol Rhan 2 nad ydynt i fod yn gymwys i blant a phersonau ifanc sy'n cael eu cadw'n gaeth**

- (1) Mae'r dyletswyddau a osodir gan y darpariaethau yn is-adran (2) ar y cyrff a ganlyn yn peidio â bod yn gymwys mewn perthynas â pherson sy'n cael ei gadw'n gaeth o ddechrau'r cyfnod o gadw'r person hwnnw yn gaeth –
- (a) corff llywodraethu ysgol a gynhelir;
  - (b) corff llywodraethu sefydliad yn y sector addysg bellach;
  - (c) awdurdod lleol.
- (2) Y darpariaethau yw –
- (a) adran 11 (dyletswydd corff llywodraethu i benderfynu);
  - (b) adran 12 (dyletswydd corff llywodraethu i lunio a chynnal cynllun);
  - (c) adran 13 (dyletswydd awdurdod lleol i benderfynu);
  - (d) adran 14 (dyletswydd awdurdod lleol i lunio a chynnal cynllun);
  - (e) adran 26 (dyletswydd awdurdod lleol i ailystyried penderfyniad corff llywodraethu);
  - (f) adran 30(2) (dyletswydd corff llywodraethu i atgyfeirio pan fo plentyn neu berson ifanc wedi ei gofrestru neu wedi ymrestru mewn mwy nag un sefydliad);
  - (g) adran 47(2) (dyletswydd corff llywodraethu i gymryd pob cam rhesymol i sicrhau darpariaeth ddysgu ychwanegol).
- (3) Nid yw'r dyletswyddau a osodir gan y darpariaethau yn is-adran (4) ar gorff llywodraethu ysgol a gynhelir neu ar gorff llywodraethu sefydliad yn y sector addysg bellach yn gymwys mewn perthynas â phlentyn neu berson ifanc ar unrhyw adeg tra bo'r plentyn hwnnw neu'r person ifanc hwnnw –
- (a) yn ddarostyngedig i orchymyn cadw (o fewn yr ystyr a roddir i "detention order" gan adran 562(1A)(a), (2) a (3) o Ddeddf Addysg 1996), a
  - (b) wedi ei gadw'n gaeth mewn llety ac eithrio llety ieuenctid perthnasol yng Nghymru neu yn Lloegr.
- (4) Y darpariaethau yw –
- (a) adran 11 (dyletswydd i benderfynu);
  - (b) adran 12 (dyletswydd i lunio a chynnal cynllun);
  - (c) adran 17 (dyletswydd i atgyfeirio mater i awdurdod lleol sy'n gofalu am blentyn);
  - (d) adran 30(2) (dyletswydd i atgyfeirio pan fo plentyn neu berson ifanc wedi ei gofrestru neu wedi ymrestru mewn mwy nag un sefydliad);
  - (e) adran 47(2) (dyletswydd i gymryd pob cam rhesymol i sicrhau darpariaeth ddysgu ychwanegol).

- (4) The local authority that looks after the child must maintain the plan; and the plan is to be treated as maintained under section 19 for the purposes of this Part, with any provision described in the plan in accordance with section 14(6) or 40(7) being treated as described in accordance with section 19(4).

**44 Certain provisions of Part 2 not to apply to children and young persons in detention**

- (1) The duties imposed by the provisions in subsection (2) on the following bodies cease to apply in relation to a detained person from the beginning of that person's detention –
  - (a) the governing body of a maintained school;
  - (b) the governing body of an institution in the further education sector;
  - (c) a local authority.
- (2) The provisions are –
  - (a) section 11 (governing body's duty to decide);
  - (b) section 12 (governing body's duty to prepare and maintain a plan);
  - (c) section 13 (local authority's duty to decide);
  - (d) section 14 (local authority's duty to prepare and maintain a plan);
  - (e) section 26 (local authority's duty to reconsider governing body's decision);
  - (f) section 30(2) (governing body's duty to refer where child or young person registered or enrolled at more than one institution);
  - (g) section 47(2) (governing body's duty to take all reasonable steps to secure additional learning provision).
- (3) The duties imposed by the provisions in subsection (4) on the governing body of a maintained school or on the governing body of an institution in the further education sector do not apply in relation to a child or young person at any time while that child or young person is –
  - (a) subject to a detention order (within the meaning given by section 562(1A)(a), (2) and (3) of the Education Act 1996), and
  - (b) detained in accommodation other than relevant youth accommodation in Wales or England.
- (4) The provisions are –
  - (a) section 11 (duty to decide);
  - (b) section 12 (duty to prepare and maintain a plan);
  - (c) section 17 (duty to refer a matter to a local authority that looks after a child);
  - (d) section 30(2) (duty to refer where child or young person registered or enrolled at more than one institution);
  - (e) section 47(2) (duty to take all reasonable steps to secure additional learning provision).

- (5) Mae is-adran (6) yn gymwys hyd nes bod adran 49 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22) (cymhwyso darpariaethau i bersonau sy'n cael eu cadw'n gaeth mewn llety ieuencid perthnasol) yn dod i rym yn llawn o ran Cymru.
- (6) Mae adran 562 o Ddeddf Addysg 1996 (p. 56) i gael effaith at ddiben y pwerau a'r dyletswyddau a roddir neu a osodir gan neu o dan y Rhan hon ar awdurdodau lleol fel pe bai adran 49 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22) mewn grym yn llawn o ran Cymru.
- (7) At ddibenion y Rhan hon, mae'r cyfeiriad yn is-adran (1) o adran 562 o Ddeddf Addysg 1996 (p. 56) at lety ieuencid perthnasol i gael effaith fel pe bai'n gyfeiriad at lety ieuencid perthnasol yng Nghymru neu yn Lloegr.

#### **45 Cadw'n gaeth o dan Ran 3 o Ddeddf Iechyd Meddwl 1983**

- (1) Mae is-adran (2) yn gymwys pan, oherwydd adran 44 neu adran 562 o Ddeddf Addysg 1996 (p.56), na fo pwerau neu ddyletswyddau a roddir neu a osodir gan neu o dan y Rhan hon i neu ar awdurdodau lleol neu gyrff llywodraethu ysgolion a gynhelir neu sefydliadau yn y sector addysg bellach yn gymwys mewn perthynas â phlentyn neu berson ifanc –
  - (a) sy'n ddarostyngedig i orchymyn cadw (o fewn yr ystyr a roddir i "detention order" gan adran 562(1A)(a), (2) a (3) o Ddeddf Addysg 1996), a
  - (b) sy'n cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf Iechyd Meddwl 1983 (p. 20).
- (2) Caiff rheoliadau ddarparu i'r pwerau neu'r dyletswyddau hynny gael eu cymhwyso, gydag addasiad neu hebdo, mewn perthynas â'r plentyn neu'r person ifanc.

*Yr angen am gynlluniau*

#### **46 Rheoliadau ynghylch penderfynu a oes angen cynllun datblygu unigol**

- (1) Mae rheoliadau o dan yr adran hon yn gymwys i'r darpariaethau a ganlyn a phenderfyniadau a wneir odanynt –
  - (a) adran 14(1)(c)(ii);
  - (b) adran 31(6)(b);
  - (c) adran 40(2)(b).
- (2) Caiff rheoliadau –
  - (a) pennu ffactorau sydd i gael eu hystyried wrth asesu a oes angen llunio neu gynnal cynllun;
  - (b) pennu amgylchiadau y mae angen, neu nad oes angen, llunio neu gynnal cynllun odanynt;
  - (c) darparu ar gyfer yr hyn sydd i gael ei ystyried, neu nad yw i gael ei ystyried, yn anghenion rhesymol am addysg neu hyfforddiant (pa un ai wrth bennu ffactorau, pennu amgylchiadau neu fel arall);
  - (d) gwneud darpariaeth bellach ynghylch y diffiniad o "addysg neu hyfforddiant";
  - (e) gwneud darpariaeth ynghylch y broses ar gyfer gwneud penderfyniadau.

- (5) Subsection (6) applies until section 49 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) (application of provisions to persons detained in relevant youth accommodation) comes fully into force in relation to Wales.
- (6) Section 562 of the Education Act 1996 (c. 56) is to have effect for the purpose of the powers and duties conferred or imposed by or under this Part on local authorities as though section 49 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) were fully in force in relation to Wales.
- (7) For the purposes of this Part, the reference in subsection (1) of section 562 of the Education Act 1996 (c. 56) to relevant youth accommodation is to have effect as though it were a reference to relevant youth accommodation in Wales or England.

**45 Detention under Part 3 of the Mental Health Act 1983**

- (1) Subsection (2) applies where, because of section 44 or section 562 of the Education Act 1996 (c.56), powers or duties conferred or imposed by or under this Part on local authorities or on the governing bodies of maintained schools or institutions in the further education sector do not apply in relation to a child or young person who is –
  - (a) subject to a detention order (within the meaning given by section 562(1A)(a), (2) and (3) of the Education Act 1996), and
  - (b) detained in a hospital under Part 3 of the Mental Health Act 1983 (c. 20).
- (2) Regulations may provide for those powers or duties to be applied, with or without modification, in relation to the child or young person.

*Necessity of plans*

**46 Regulations about deciding whether an individual development plan is necessary**

- (1) Regulations under this section apply to the following provisions and decisions made under them –
  - (a) section 14(1)(c)(ii);
  - (b) section 31(6)(b);
  - (c) section 40(2)(b).
- (2) Regulations may –
  - (a) specify factors to be taken into account in assessing whether it is necessary to prepare or maintain a plan;
  - (b) specify circumstances in which it is, or is not, necessary to prepare or maintain a plan;
  - (c) provide for what are, and what are not, to be considered reasonable needs for education or training (whether in specifying factors, specifying circumstances or otherwise);
  - (d) make further provision about the definition of “education or training”;
  - (e) make provision about the process for making decisions.

**PENNOD 3****SWYDDOGAETHAU ATODOL**

*Swyddogaethau sy'n ymwneud â sicrhau darpariaeth ddysgu ychwanegol*

**47 Dyletswydd i gymryd pob cam rhesymol i sicrhau darpariaeth ddysgu ychwanegol**

- (1) Mae is-adran (2) yn gymwys i blentyn neu berson ifanc –
  - (a) sydd ag anghenion dysgu ychwanegol,
  - (b) nad oes cynllun datblygu unigol yn cael ei gynnal ar ei gyfer, ac
  - (c) sy'n ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru neu'n fyfyrwr ymrestredig mewn sefydliad yn y sector addysg bellach yng Nghymru.
- (2) Rhaid i gorff llywodraethu'r ysgol a gynhelir neu'r sefydliad yn y sector addysg bellach (yn ôl y digwydd), wrth arfer ei swyddogaethau mewn perthynas â'r ysgol neu'r sefydliad, gymryd pob cam rhesymol i sicrhau bod y ddarpariaeth ddysgu ychwanegol y mae anghenion dysgu ychwanegol y plentyn neu'r person ifanc yn galw amdani yn cael ei gwneud.
- (3) Rhaid i'r Cod o dan adran 4 gynnwys canllawiau ynghylch arfer y swyddogaeth yn is-adran (2) yn ystod y cyfnod y mae cynllun datblygu unigol yn cael ei lunio ynddo ar gyfer plentyn neu berson ifanc ond nad yw wedi ei roi.
- (4) Mae is-adran (5) yn gymwys i blentyn neu berson ifanc –
  - (a) y mae cynllun datblygu unigol yn cael ei gynnal ar ei gyfer gan awdurdod lleol, a
  - (b) sy'n ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru neu'n fyfyrwr ymrestredig mewn sefydliad yn y sector addysg bellach yng Nghymru.
- (5) Rhaid i gorff llywodraethu'r ysgol a gynhelir neu'r sefydliad yn y sector addysg bellach (yn ôl y digwydd) gymryd pob cam rhesymol i helpu'r awdurdod lleol sy'n cynnal y cynllun i sicrhau'r ddarpariaeth ddysgu ychwanegol a bennir ynddo.

**48 Dyletswydd i dderbyn plant i ysgolion a gynhelir a enwir**

- (1) Mae is-adran (2) yn gymwys os yw ysgol a gynhelir yng Nghymru wedi ei henwi mewn cynllun datblygu unigol a lunnir neu a gynhelir ar gyfer plentyn gan awdurdod lleol at ddiben sicrhau bod y plentyn yn cael ei dderbyn i'r ysgol.
- (2) Rhaid i gorff llywodraethu'r ysgol dderbyn y plentyn.
- (3) Cyn enwi ysgol o dan yr adran hon, rhaid i'r awdurdod lleol ymgynghori –
  - (a) â chorff llywodraethu'r ysgol, a
  - (b) yn achos ysgol a gynhelir pan nad yr awdurdod lleol na'i chorff llywodraethu yw'r awdurdod derbyn ar gyfer yr ysgol, â'r awdurdod lleol ar gyfer yr ardal lle y mae'r ysgol.
- (4) Ni chaiff awdurdod lleol enwi ysgol a gynhelir mewn cynllun datblygu unigol at ddiben sicrhau bod plentyn yn cael ei dderbyn ond –

## CHAPTER 3

### SUPPLEMENTARY FUNCTIONS

#### *Functions relating to securing additional learning provision*

#### **47 Duty to take all reasonable steps to secure additional learning provision**

- (1) Subsection (2) applies to a child or young person –
  - (a) who has additional learning needs,
  - (b) for whom an individual development plan is not being maintained, and
  - (c) who is a registered pupil at a maintained school in Wales or an enrolled student at an institution in the further education sector in Wales.
- (2) The governing body of the maintained school or institution in the further education sector (as the case may be) must, in exercising its functions in relation to the school or institution, take all reasonable steps to secure that the additional learning provision called for by the child's or young person's additional learning needs is made.
- (3) The Code under section 4 must include guidance about the exercise of the function in subsection (2) during the period in which an individual development plan is being prepared for a child or young person but has not been given.
- (4) Subsection (5) applies to a child or young person –
  - (a) for whom an individual development plan is being maintained by a local authority, and
  - (b) who is a registered pupil at a maintained school in Wales or an enrolled student at an institution in the further education sector in Wales.
- (5) The governing body of the maintained school or institution in the further education sector (as the case may be) must take all reasonable steps to help the local authority that maintains the plan to secure the additional learning provision specified in it.

#### **48 Duty to admit children to named maintained schools**

- (1) Subsection (2) applies if a maintained school in Wales is named in an individual development plan prepared or maintained for a child by a local authority for the purpose of securing admission of the child to the school.
- (2) The governing body of the school must admit the child.
- (3) Before naming a school under this section, the local authority must consult –
  - (a) the governing body of the school, and
  - (b) in the case of a maintained school where neither the local authority nor its governing body is the admissions authority for the school, the local authority for the area in which the school is located.
- (4) A local authority may only name a maintained school in an individual development plan for the purpose of securing admission of a child if –

- (a) os yw'r awdurdod wedi ei fodloni ei bod, er lles y plentyn, yn ofynnol i'r ddarpariaeth ddysgu ychwanegol a nodir yn ei gynllun gael ei gwneud yn yr ysgol, a
  - (b) os yw'n briodol darparu addysg neu hyfforddiant i'r plentyn yn yr ysgol.
- (5) Mae is-adran (2) yn cael effaith er gwaethaf unrhyw ddyletswydd a osodir ar gorff llywodraethu ysgol gan adran 1(6) o Ddeddf Safonau a Fframwaith Ysgolion 1998 (p. 31) (terfynau ar faint dosbarthiadau babanod).
- (6) Nid yw is-adran (2) yn effeithio ar unrhyw bŵer i wahardd disgybl o ysgol.
- (7) Yn yr adran hon, mae i "awdurdod derbyn" yr ystyr a roddir i "admissions authority" gan adran 88 o Ddeddf Safonau a Fframwaith Ysgolion 1998.

#### 49 Dim pŵer i godi tâl am ddarpariaeth a sicrheir o dan y Rhan hon

- (1) Ni chaiff corff llywodraethu nac awdurdod lleol godi tâl ar blentyn, ar riant plentyn neu ar berson ifanc am unrhyw beth y mae'r corff llywodraethu neu'r awdurdod lleol yn ei sicrhau ar gyfer plentyn neu berson ifanc o dan y Rhan hon.
- (2) Nid yw plentyn, rhiant plentyn, neu berson ifanc yn atebol i dalu unrhyw dâl a godir gan berson am unrhyw beth y mae corff llywodraethu neu awdurdod lleol yn ei sicrhau ar gyfer plentyn neu berson ifanc o dan y Rhan hon.
- (3) Yn yr adran hon, nid yw "rhiant" yn cynnwys rhiant nad yw'n unigolyn.
- (4) Mae Atodlen 1 i Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4) wedi ei diwygio fel a ganlyn.
- (5) Ym mharagraff 1, yn is-baragraff (1), ar ôl "mewn achosion ar wahân i'r rhai a grybwyllir yn is-baragraff (8)" mewnosoder ", ac mewn achosion pan fo codi ffioedd wedi ei wahardd gan neu o dan ddeddfiad".

#### 50 Dyletswyddau Gweinidogion Cymru i sicrhau addysg a hyfforddiant ôl-16

- (1) Mae Deddf Dysgu a Sgiliau 2000 (p. 21) wedi ei diwygio fel a ganlyn.
- (2) Yn adran 31(3) (addysg a hyfforddiant ar gyfer personau 16 i 19 oed), ar ôl paragraff (c) mewnosoder –
  - “(cc) take account of the education and training that is required in order to ensure that employees and potential employees are available who are able to deliver additional learning provision in Welsh;
  - (cd) take account of the education and training that is required in order to ensure that facilities are available for assessing through the medium of Welsh whether persons have additional learning needs;”.
- (3) Yn adran 32(3) (addysg a hyfforddiant ar gyfer personau sy'n hŷn na 19 oed), ar ôl paragraff (c) mewnosoder –
  - “(cc) take account of the education and training that is required in order to ensure that employees and potential employees are available who are able to deliver additional learning provision in Welsh;



- (a) the authority is satisfied that the child's interest requires the additional learning provision identified in his or her plan to be made at the school, and
  - (b) it is appropriate for the child to be provided with education or training at the school.
- (5) Subsection (2) has effect despite any duty imposed on the governing body of a school by section 1(6) of the School Standards and Framework Act 1998 (c. 31) (limits on infant class sizes).
- (6) Subsection (2) does not affect any power to exclude a pupil from a school.
- (7) In this section, "admissions authority" has the meaning given by section 88 of the School Standards and Framework Act 1998.

**49 No power to charge for provision secured under this Part**

- (1) No charge may be made by a governing body or a local authority to a child, a child's parent or a young person for anything that the governing body or local authority secures for a child or young person under this Part.
- (2) A child, a child's parent or a young person is not liable to pay any charge made by a person for anything that a governing body or local authority secures for a child or young person under this Part.
- (3) In this section, "parent" does not include a parent who is not an individual.
- (4) Schedule 1 to the Social Services and Well-being (Wales) Act 2014 (anaw 4) is amended as follows.
- (5) In paragraph 1, in sub-paragraph (1), after "other than in the cases mentioned in sub-paragraph (8)" insert ", and in cases where charging is prohibited by or under an enactment".

**50 Welsh Ministers' duties to secure post-16 education and training**

- (1) The Learning and Skills Act 2000 (c. 21) is amended as follows.
- (2) In section 31(3) (education and training for persons aged 16 to 19), after paragraph (c) insert—
- “(cc) take account of the education and training that is required in order to ensure that employees and potential employees are available who are able to deliver additional learning provision in Welsh;
  - (cd) take account of the education and training that is required in order to ensure that facilities are available for assessing through the medium of Welsh whether persons have additional learning needs;”.
- (3) In section 32(3) (education and training for persons over 19), after paragraph (c) insert—
- “(cc) take account of the education and training that is required in order to ensure that employees and potential employees are available who are able to deliver additional learning provision in Welsh;

- (cd) take account of the education and training that is required in order to ensure that facilities are available for assessing through the medium of Welsh whether persons have additional learning needs;".
- (4) Yn adran 41 (personau ag anawsterau dysgu) –
- (a) yn y pennawd, yn lle "learning difficulties" rhodder "additional learning needs";
- (b) yn is-adran (1) –
- (i) ym mharagraff (a), yn lle "learning difficulties, and" rhodder "additional learning needs;";
- (ii) yn lle paragraff (b) rhodder –
- "(b) to the desirability of facilities being available which would assist the discharge of duties under the Additional Learning Needs and Education Tribunal (Wales) Act 2018.";
- (c) hepgorer is-adrannau (2), (3) a (4);
- (d) yn lle is-adran (5) rhodder –
- "(5A) In this Part, "additional learning needs" has the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and "additional learning provision" has the meaning given by section 3 of that Act.";
- (e) hepgorer is-adran (6).
- (5) Hefgorer adran 140 (asesiadau sy'n ymwneud ag anawsterau dysgu).

*Darpariaeth ddysgu ychwanegol mewn mathau penodol o ysgol neu sefydliad arall*

## **51 Dyletswydd i ffafrio addysg i blant mewn ysgolion prif ffrwd a gynhelir**

- (1) Rhaid i awdurdod lleol sy'n arfer swyddogaethau o dan y Rhan hon mewn perthynas â phlentyn sydd o'r oedran ysgol gorfodol sydd ag anghenion dysgu ychwanegol ac a ddylai gael ei addysgu mewn ysgol sicrhau bod y plentyn yn cael ei addysgu mewn ysgol brif ffrwd a gynhelir oni bai bod unrhyw un neu ragor o'r amgylchiadau ym mharagraffau (a) i (c) o is-adran (2) yn gymwys.
- (2) Yr amgylchiadau yw –
- (a) bod addysgu'r plentyn mewn ysgol brif ffrwd a gynhelir yn anghydnaws â darparu addysg effeithlon ar gyfer plant eraill;
- (b) bod addysgu'r plentyn mewn man ac eithrio mewn ysgol brif ffrwd a gynhelir yn briodol er lles pennaf y plentyn ac yn gydnaws â darparu addysg effeithlon ar gyfer plant eraill;
- (c) bod rhiant y plentyn yn dymuno i'r plentyn gael ei addysgu mewn man ac eithrio mewn ysgol brif ffrwd a gynhelir.
- (3) Ni chaiff awdurdod lleol ddibynnu ar yr eithriad yn is-adran (2)(a) oni bai nad oes unrhyw gamau rhesymol y gallai'r awdurdod eu cymryd i atal yr anghydnawsedd.

- (cd) take account of the education and training that is required in order to ensure that facilities are available for assessing through the medium of Welsh whether persons have additional learning needs;".
- (4) In section 41 (persons with learning difficulties)–
  - (a) in the heading, for “learning difficulties” substitute “additional learning needs”;
  - (b) in subsection (1)–
    - (i) in paragraph (a), for “learning difficulties, and” substitute “additional learning needs;”;
    - (ii) for paragraph (b) substitute–
      - “(b) to the desirability of facilities being available which would assist the discharge of duties under the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”;
  - (c) omit subsections (2), (3) and (4);
  - (d) for subsection (5) substitute–
    - “(5A) In this Part, “additional learning needs” has the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and “additional learning provision” has the meaning given by section 3 of that Act.”;
  - (e) omit subsection (6).
- (5) Omit section 140 (assessments relating to learning difficulties).

*Additional learning provision in particular kinds of school or other institution*

## **51 Duty to favour education for children at mainstream maintained schools**

- (1) A local authority exercising functions under this Part in relation to a child of compulsory school age with additional learning needs who should be educated in a school must secure that the child is educated in a mainstream maintained school unless any of the circumstances in paragraphs (a) to (c) of subsection (2) apply.
- (2) The circumstances are –
  - (a) that educating the child in a mainstream maintained school is incompatible with the provision of efficient education for other children;
  - (b) that educating the child otherwise than in a mainstream maintained school is appropriate in the best interests of the child and compatible with the provision of efficient education for other children;
  - (c) that the child’s parent wishes the child to be educated otherwise than in a mainstream maintained school.
- (3) A local authority may not rely on the exception in subsection (2)(a) unless there are no reasonable steps the authority could take to prevent the incompatibility.

- (4) Pan fo rhiant plentyn yn dymuno i'w blentyn gael ei addysgu mewn man ac eithrio mewn ysgol brif ffrwd a gynhelir, nid yw is-adran (2)(c) yn ei gwneud yn ofynnol i awdurdod lleol sicrhau bod y plentyn yn cael ei addysgu mewn man ac eithrio mewn ysgol brif ffrwd a gynhelir.
- (5) Nid yw is-adran (1) yn atal plentyn rhag cael ei addysgu mewn—
  - (a) ysgol annibynnol, neu
  - (b) ysgol a gymeradwyir o dan adran 342 o Ddeddf Addysg 1996 (p. 56),
 os telir y gost ac eithrio gan awdurdod lleol.

## **52 Plant ag anghenion dysgu ychwanegol mewn ysgolion prif ffrwd a gynhelir**

- (1) Pan fo plentyn ag anghenion dysgu ychwanegol yn cael ei addysgu mewn ysgol brif ffrwd a gynhelir yng Nghymru, rhaid i'r rheini sy'n ymwneud â gwneud darpariaeth ddysgu ychwanegol ar gyfer y plentyn sicrhau bod y plentyn yn cymryd rhan yng ngweithgareddau'r ysgol ar y cyd â phlant nad oes ganddynt anghenion dysgu ychwanegol.
- (2) Nid yw'r ddyletswydd yn is-adran (1) ond yn gymwys i'r graddau y bo'n rhesymol ymarferol a'i bod yn gydnaws—
  - (a) â'r plentyn yn cael y ddarpariaeth ddysgu ychwanegol y mae ei anghenion dysgu ychwanegol yn galw amdani,
  - (b) â darparu addysg effeithlon ar gyfer y plant y caiff ei addysgu gyda hwy, ac
  - (c) â'r defnydd effeithlon o adnoddau.

## **53 Darpariaeth ddysgu ychwanegol mewn mannau ac eithrio mewn ysgolion**

- (1) Caiff awdurdod lleol drefnu i'r ddarpariaeth ddysgu ychwanegol a ddisgrifir mewn cynllun datblygu unigol y mae'n ei gynnal ar gyfer plentyn, neu i unrhyw ran o'r ddarpariaeth ddysgu ychwanegol honno, gael ei gwneud mewn man ac eithrio mewn ysgol.
- (2) Ond ni chaiff awdurdod lleol wneud hynny ond os yw wedi ei fodloni y byddai'n amhriodol i'r ddarpariaeth ddysgu ychwanegol gael ei gwneud mewn ysgol.

## **54 Diwygiadau i ofynion cofrestru ar gyfer ysgolion annibynnol yng Nghymru**

- (1) Mae Deddf Addysg 2002 (p. 32) wedi ei diwygio fel a ganlyn.
- (2) Yn adran 158 (cofrestrau), ar ôl is-adran (3) mewnosoder—
  - “(4) The Welsh Ministers must publish a list of the schools included in the register of independent schools in Wales, as amended from time to time.
  - (5) If the Welsh Ministers have been provided with the necessary information by the proprietor of the school, the published list must specify the type or types of additional learning provision made by a school on the list for pupils with additional learning needs (if any).”

- (4) Where a child's parent wishes his or her child to be educated otherwise than in a mainstream maintained school, subsection (2)(c) does not require a local authority to secure that the child is educated otherwise than in a mainstream maintained school.
- (5) Subsection (1) does not prevent a child from being educated in—
  - (a) an independent school, or
  - (b) a school approved under section 342 of the Education Act 1996 (c. 56),if the cost is met otherwise than by a local authority.

## **52 Children with additional learning needs in mainstream maintained schools**

- (1) Where a child with additional learning needs is being educated in a mainstream maintained school in Wales, those concerned with making additional learning provision for the child must secure that the child engages in the activities of the school together with children who do not have additional learning needs.
- (2) The duty in subsection (1) applies only so far as is reasonably practicable and compatible with—
  - (a) the child receiving the additional learning provision called for by his or her additional learning needs,
  - (b) the provision of efficient education for the children with whom he or she will be educated, and
  - (c) the efficient use of resources.

## **53 Additional learning provision otherwise than in schools**

- (1) A local authority may arrange for the additional learning provision described in an individual development plan it maintains for a child, or any part of that additional learning provision, to be made otherwise than in a school.
- (2) But a local authority may only do so if it is satisfied that it would be inappropriate for the additional learning provision to be made in a school.

## **54 Amendments to registration requirements for independent schools in Wales**

- (1) The Education Act 2002 (c. 32) is amended as follows.
- (2) In section 158 (registers), after subsection (3) insert—
  - “(4) The Welsh Ministers must publish a list of the schools included in the register of independent schools in Wales, as amended from time to time.
  - (5) If the Welsh Ministers have been provided with the necessary information by the proprietor of the school, the published list must specify the type or types of additional learning provision made by a school on the list for pupils with additional learning needs (if any).”

- (3) Yn adran 160 (ceisiadau i gofrestru), yn is-adran (2), yn lle paragraff (e) rhodder –
- “(e) the type or types of additional learning provision made by the school for pupils with additional learning needs (if any).”

**55 Amodau sy'n gymwys i sicrhau darpariaeth ddysgu ychwanegol mewn ysgolion annibynnol**

- (1) Ni chaiff awdurdod lleol arfer ei swyddogaethau o dan y Rhan hon i sicrhau bod plentyn neu berson ifanc yn cael ei addysgu mewn ysgol annibynnol yng Nghymru oni bai –
- (a) bod yr ysgol wedi ei chynnwys yn y gofrestr o ysgolion annibynnol yng Nghymru, a
- (b) bod yr awdurdod lleol wedi ei fodloni y gall yr ysgol wneud y ddarpariaeth ddysgu ychwanegol a ddisgrifir yng nghynllun datblygu unigol y plentyn neu'r person ifanc.
- (2) Ni chaiff awdurdod lleol arfer ei swyddogaethau o dan y Rhan hon i sicrhau bod plentyn neu berson ifanc yn cael ei addysgu mewn sefydliad addysgol annibynnol yn Lloegr oni bai –
- (a) bod y sefydliad wedi ei gynnwys yn y gofrestr o sefydliadau addysgol annibynnol yn Lloegr (a gedwir o dan adran 95 o Ddeddf Addysg a Sgiliau 2008 (p. 25) (“Deddf 2008”)), a
- (b) bod yr awdurdod lleol wedi ei fodloni y gall y sefydliad wneud y ddarpariaeth ddysgu ychwanegol a ddisgrifir yng nghynllun datblygu unigol y plentyn neu'r person ifanc.
- (3) Yn yr adran hon, mae i “sefydliad addysgol annibynnol” yr ystyr a roddir i “independent educational institution” gan Bennod 1 o Ran 4 o Ddeddf 2008.

**56 Rhestr o sefydliadau ôl-16 arbennig annibynnol**

- (1) Rhaid i Weinidogion Cymru sefydlu a chynnal rhestr o sefydliadau ôl-16 arbennig annibynnol yng Nghymru a Lloegr (“y rhestr”) at ddiben is-adran (3).
- (2) Rhaid i Weinidogion Cymru gyhoeddi'r rhestr, fel y'i diwygir o bryd i'w gilydd.
- (3) Dim ond os yw sefydliad ôl-16 arbennig annibynnol yng Nghymru neu yn Lloegr wedi ei gynnwys yn y rhestr y caiff awdurdod lleol arfer ei swyddogaethau o dan y Rhan hon i sicrhau addysg neu hyfforddiant ar gyfer plentyn neu berson ifanc yn y sefydliad hwnnw, yn ddarostyngedig i unrhyw esemptiadau rhagnodedig.
- (4) Dim ond ar gais perchennog sefydliad y caiff Gweinidogion Cymru gynnwys y sefydliad hwnnw yn y rhestr.
- (5) Rhaid i reoliadau ddarparu ar gyfer –
- (a) cynnwys y rhestr;
- (b) gofynion y mae rhaid cydymffurfio â hwy fel amod o gynnwys y sefydliad yn y rhestr;
- (c) gofynion y mae rhaid cydymffurfio â hwy tra bo'r sefydliad wedi ei restru (gan gynnwys gofynion o ran cael cymeradwyaeth Gweinidogion Cymru i drefniadau yn y sefydliad ac i newid trefniadau o'r fath);

- (3) In section 160 (applications for registration), in subsection (2), for paragraph (e) substitute –

“(e) the type or types of additional learning provision made by the school for pupils with additional learning needs (if any).”

**55 Conditions applicable to securing additional learning provision at independent schools**

- (1) A local authority may not exercise its functions under this Part to secure that a child or young person is educated at an independent school in Wales unless –
- (a) the school is included in the register of independent schools in Wales, and
  - (b) the local authority is satisfied that the school can make the additional learning provision described in the child’s or young person’s individual development plan.
- (2) A local authority may not exercise its functions under this Part to secure that a child or young person is educated at an independent educational institution in England unless –
- (a) the institution is included in the register of independent educational institutions in England (kept under section 95 of the Education and Skills Act 2008 (c. 25) (“the 2008 Act”)), and
  - (b) the local authority is satisfied that the institution can make the additional learning provision described in the child’s or young person’s individual development plan.
- (3) In this section, “independent educational institution” has the meaning given by Chapter 1 of Part 4 of the 2008 Act.

**56 List of independent special post-16 institutions**

- (1) The Welsh Ministers must establish and maintain a list of independent special post-16 institutions in Wales and England (“the list”) for the purpose of subsection (3).
- (2) The Welsh Ministers must publish the list, as amended from time to time.
- (3) A local authority may only exercise its functions under this Part to secure education or training for a child or young person at an independent special post-16 institution in Wales or England if the institution is included in the list, subject to any prescribed exemptions.
- (4) The Welsh Ministers may only include an institution in the list on application by its proprietor.
- (5) Regulations must provide for –
- (a) the contents of the list;
  - (b) requirements to be complied with as a condition of being included in the list;
  - (c) requirements to be complied with while the institution is listed (including requirements for approval by the Welsh Ministers of arrangements at the institution and change of such arrangements);

- (d) dileu'r sefydliad o'r rhestr;
- (e) yr hawl i berchenogion sefydliadau apelio i'r Tribiwnlys Haen Gyntaf yn erbyn penderfyniadau –
  - (i) i wrthod rhestru sefydliad;
  - (ii) i ddileu sefydliad o'r rhestr;
  - (iii) i beidio â chymeradwyo trefniadau yn y sefydliad neu i beidio â chymeradwyo newid iddynt.
- (6) Yn yr adran hon, ystyr "sefydliad ôl-16 arbennig annibynnol" yw sefydliad sy'n darparu addysg neu hyfforddiant ar gyfer personau sy'n hŷn na'r oedran ysgol gorfodol ac sydd wedi ei drefnu'n arbennig i ddarparu addysg neu hyfforddiant o'r fath ar gyfer personau ag anghenion dysgu ychwanegol, ac nad yw'n –
  - (a) sefydliad yn y sector addysg bellach,
  - (b) ysgol annibynnol sydd wedi ei chynnwys yn y gofrestr o ysgolion annibynnol yng Nghymru (a gedwir o dan adran 158 o Ddeddf Addysg 2002 (p. 32)),
  - (c) sefydliad addysgol annibynnol (o fewn ystyr Pennod 1 o Ran 4 o Ddeddf Addysg a Sgiliau 2008 (p. 25)), sydd wedi ei gynnwys yn y gofrestr o sefydliadau addysgol annibynnol yn Lloegr (a gedwir o dan adran 95 o'r Ddeddf honno), neu
  - (d) Academi 16 i 19.

#### **57 Diddymu cymeradwyo ysgolion arbennig nas cynhelir yng Nghymru**

- (1) Mae Deddf Addysg 1996 (p. 56) wedi ei diwygio fel a ganlyn.
- (2) Yn adran 337A (dehongli'r Bennod), hepgorer y diffiniad o "the appropriate national authority".
- (3) Yn adran 342 (cymeradwyo ysgolion arbennig nas cynhelir) –
  - (a) yn is-adran (1) –
    - (i) yn lle "appropriate national authority" rhodder "Secretary of State", a
    - (ii) ar ôl "school", y tro cyntaf y mae'n ymddangos, mewnosoder "in England";
  - (b) yn is-adran (5)(a), yn lle "appropriate national authority" rhodder "Secretary of State";
  - (c) hepgorer is-adran (6).

#### **58 Diddymu cymeradwyo ysgolion annibynnol yng Nghymru**

Mae adran 347 o Ddeddf Addysg 1996 (p. 56) (cymeradwyo ysgolion annibynnol fel rhai sy'n addas i dderbyn plant â datganiadau anghenion addysgol arbennig) wedi ei diddymu.



- (d) removal of the institution from the list;
- (e) rights of appeal to the First-tier Tribunal for proprietors of institutions against decisions –
  - (i) to refuse to list an institution;
  - (ii) to remove an institution from the list;
  - (iii) not to approve or not to approve a change to arrangements at the institution.
- (6) In this section, “independent special post-16 institution” means an institution which provides education or training for persons over compulsory school age and is specially organised to provide such education or training for persons with additional learning needs, and which is not –
  - (a) an institution within the further education sector,
  - (b) an independent school included in the register of independent schools in Wales (kept under section 158 of the Education Act 2002 (c. 32)),
  - (c) an independent educational institution (within the meaning of Chapter 1 of Part 4 of the Education and Skills Act 2008 (c. 25)), which has been included in the register of independent educational institutions in England (kept under section 95 of that Act), or
  - (d) a 16 to 19 Academy.

**57 Abolition of approval of non-maintained special schools in Wales**

- (1) The Education Act 1996 (c. 56) is amended as follows.
- (2) In section 337A (interpretation of Chapter), omit the definition of “the appropriate national authority”.
- (3) In section 342 (approval of non-maintained special schools) –
  - (a) in subsection (1) –
    - (i) for “appropriate national authority” substitute “Secretary of State”, and
    - (ii) after “school”, the first time it appears, insert “in England”;
  - (b) in subsection (5)(a), for “appropriate national authority” substitute “Secretary of State”;
  - (c) omit subsection (6).

**58 Abolition of approval of independent schools in Wales**

Section 347 of the Education Act 1996 (c. 56) (approval of independent schools as suitable for admission of children with statements of special educational needs) is repealed.

**59 Darpariaeth ddysgu ychwanegol y tu allan i Gymru a Lloegr**

Caiff awdurdod lleol arfer ei swyddogaethau o dan y Rhan hon i wneud trefniadau i blentyn neu berson ifanc ag anghenion dysgu ychwanegol fynychu sefydliad y tu allan i Gymru a Lloegr, ond dim ond os yw'r sefydliad wedi ei drefnu i wneud y ddarpariaeth ddysgu ychwanegol a ddisgrifir yng nghynllun datblygu unigol y plentyn neu'r person ifanc.

*Swyddogion cydlynu anghenion dysgu ychwanegol*

**60 Cydlynnydd anghenion dysgu ychwanegol**

- (1) Mae'r ddyletswydd yn is-adran (2) yn gymwys –
  - (a) i gorff llywodraethu ysgol yng Nghymru –
    - (i) sy'n ysgol gymunedol, yn ysgol sefydledig neu'n ysgol wirfoddol,
    - (ii) sy'n ysgol feithrin a gynhelir, neu
    - (iii) sy'n uned cyfeirio disgyblion;
  - (b) i gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru.
- (2) Rhaid i'r corff llywodraethu ddynodi person, neu fwy nag un person, i fod â chyfrifoldeb am gydlynu darpariaeth ddysgu ychwanegol ar gyfer disgyblion neu fyfyrwyr (yn ôl y digwydd) ag anghenion dysgu ychwanegol.
- (3) Mae person sydd wedi ei ddynodi o dan yr adran hon i gael ei alw'n "cydlynnydd anghenion dysgu ychwanegol".
- (4) Caiff rheoliadau –
  - (a) ei gwneud yn ofynnol i gyrrff llywodraethu sicrhau bod gan gydlynwyr anghenion dysgu ychwanegol gymwysterau rhagnodedig neu brofiad rhagnodedig (neu'r ddau);
  - (b) rhoi swyddogaethau i gydlynwyr anghenion dysgu ychwanegol mewn perthynas â darparu ar gyfer disgyblion neu fyfyrwyr (yn ôl y digwydd) ag anghenion dysgu ychwanegol.
- (5) Yn is-adrannau (2) a (4)(b), ystyr "myfyrwyr" yw myfyrwyr sydd wedi ymrestru yn y sefydliad yn y sector addysg bellach.

**61 Swyddog arweiniol clinigol addysg dynodedig**

- (1) Rhaid i Fwrdd Iechyd Lleol ddynodi swyddog i fod â chyfrifoldeb am gydlynu swyddogaethau'r Bwrdd mewn perthynas â phlant a phobl ifanc ag anghenion dysgu ychwanegol.
- (2) Ni chaiff Bwrdd Iechyd Lleol ond dynodi swyddog –
  - (a) sy'n ymarferydd meddygol cofrestredig, neu
  - (b) sy'n nyrs gofrestrredig neu'n weithiwr iechyd proffesiynol arall.
- (3) Ni chaiff Bwrdd Iechyd Lleol ond dynodi swyddog y mae'n ystyried ei fod yn meddu ar gymwysterau a phrofiad addas o ran darparu gofal iechyd ar gyfer plant a phobl ifanc ag anghenion dysgu ychwanegol.

**59 Additional learning provision outside England and Wales**

A local authority may exercise its functions under this Part to make arrangements for a child or young person with additional learning needs to attend an institution outside England and Wales, but only if the institution is organised to make the additional learning provision described in the child's or young person's individual development plan.

*Additional learning needs co-ordinating officers*

**60 Additional learning needs co-ordinator**

- (1) The duty in subsection (2) applies to –
  - (a) the governing body of a school in Wales that is –
    - (i) a community, foundation or voluntary school,
    - (ii) a maintained nursery school, or
    - (iii) a pupil referral unit;
  - (b) the governing body of an institution in the further education sector in Wales.
- (2) The governing body must designate a person, or more than one person, to have responsibility for co-ordinating additional learning provision for pupils or students (as the case may be) with additional learning needs.
- (3) A person designated under this section is to be known as an “additional learning needs co-ordinator”.
- (4) Regulations may –
  - (a) require governing bodies to ensure that additional learning needs co-ordinators have prescribed qualifications or prescribed experience (or both);
  - (b) confer functions on additional learning needs co-ordinators in relation to provision for pupils or students (as the case may be) with additional learning needs.
- (5) In subsections (2) and (4)(b), “students” means students enrolled at the institution in the further education sector.

**61 Designated education clinical lead officer**

- (1) A Local Health Board must designate an officer to have responsibility for co-ordinating the Board's functions in relation to children and young people with additional learning needs.
- (2) A Local Health Board may only designate an officer who is –
  - (a) a registered medical practitioner, or
  - (b) a registered nurse or another health professional.
- (3) A Local Health Board may only designate an officer it considers to be suitably qualified and experienced in the provision of health care for children and young people with additional learning needs.

- (4) Mae swyddog sydd wedi ei ddynodi o dan yr adran hon i gael ei alw'n "swyddog arweiniol clinigol addysg dynodedig".

**62 Swyddog arweiniol anghenion dysgu ychwanegol blynyddoedd cynnar**

- (1) Rhaid i awdurdod lleol ddynodi swyddog i fod â chyfrifoldeb am gydlynu swyddogaethau'r awdurdod o dan y Rhan hon mewn perthynas â phlant sydd o dan yr oedran ysgol gorfodol nad ydynt yn mynychu ysgolion a gynhelir.
- (2) Mae swyddog sydd wedi ei ddynodi o dan yr adran hon i gael ei alw'n "swyddog arweiniol anghenion dysgu ychwanegol blynyddoedd cynnar".

*Swyddogaethau amrywiol*

**63 Dyletswydd i gadw darpariaeth ddysgu ychwanegol o dan adolygiad**

- (1) Rhaid i awdurdod lleol gadw o dan adolygiad y trefniadau a wneir gan yr awdurdod a chan gyrrff llywodraethu ysgolion a gynhelir yn ei ardal ar gyfer plant a phobl ifanc ag anghenion dysgu ychwanegol.
- (2) Rhaid i'r awdurdod lleol ystyried y graddau y mae'r trefniadau y cyfeirir atynt yn is-adran (1) yn ddigonol i ddiwallu anghenion dysgu ychwanegol y plant a'r bobl ifanc y mae'n gyfrifol amdanynt, gan roi sylw i'r ddarpariaeth ddysgu ychwanegol a all gael ei threfnu'n rhesymol gan eraill.
- (3) Mae'r ddyletswydd yn is-adran (2) yn cynnwys dyletswydd i ystyried –
- digonolrwydd darpariaeth ddysgu ychwanegol yn Gymraeg;
  - maint a gallu'r gweithlu sydd ar gael.
- (4) Os bydd awdurdod lleol yn ystyried nad yw'r trefniadau y cyfeirir atynt yn is-adran (1) (gan gynnwys y ddarpariaeth ddysgu ychwanegol sydd ar gael yn Gymraeg) yn ddigonol, rhaid iddo gymryd pob cam rhesymol i unioni'r mater.
- (5) Wrth arfer ei swyddogaethau o dan yr adran hon, rhaid i'r awdurdod lleol ymgynghori ag unrhyw bersonau, ac ar unrhyw adegau, y mae'n ystyried eu bod yn briodol.

**64 Dyletswydd cyrff iechyd i hysbysu rhieni etc.**

- (1) Mae'r adran hon yn gymwys pan fo corff iechyd a grybwyllir yn is-adran (2), wrth arfer ei swyddogaethau mewn perthynas â phlentyn sydd o dan yr oedran ysgol gorfodol ac y mae awdurdod lleol yn gyfrifol amdano, yn ffurfio barn bod gan y plentyn, neu ei bod yn debygol bod gan y plentyn, anghenion dysgu ychwanegol.
- (2) Y cyrff iechyd yw –
- Bwrdd Iechyd Lleol;
  - y mddiriedolaeth GIG;
  - grŵp comisiynu clinigol;
  - y mddiriedolaeth sefydledig GIG;
  - Awdurdod Iechyd Arbennig.
- (3) Rhaid i'r corff iechyd roi gwybod i riant y plentyn am ei farn ac am ei ddyletswydd yn is-adran (4).

- (4) An officer designated under this section is to be known as a “designated education clinical lead officer”.

**62 Early years additional learning needs lead officer**

- (1) A local authority must designate an officer to have responsibility for co-ordinating the authority’s functions under this Part in relation to children under compulsory school age who are not attending maintained schools.
- (2) An officer designated under this section is to be known as an “early years additional learning needs lead officer”.

*Miscellaneous functions*

**63 Duty to keep additional learning provision under review**

- (1) A local authority must keep under review the arrangements made by the authority and by the governing bodies of maintained schools in its area for children and young people who have additional learning needs.
- (2) The local authority must consider the extent to which the arrangements referred to in subsection (1) are sufficient to meet the additional learning needs of the children and young people for whom it is responsible, having regard to the additional learning provision that may reasonably be arranged by others.
- (3) The duty in subsection (2) includes a duty to consider –
  - (a) the sufficiency of additional learning provision in Welsh;
  - (b) the size and capability of the workforce available.
- (4) If a local authority considers that the arrangements referred to in subsection (1) (including the availability of additional learning provision in Welsh) are not sufficient, it must take all reasonable steps to remedy the matter.
- (5) In exercising its functions under this section, the local authority must consult such persons, and at such times, as they consider appropriate.

**64 Duty of health bodies to notify parents etc.**

- (1) This section applies where a health body mentioned in subsection (2), in the course of exercising its functions in relation to a child who is under compulsory school age and for whom a local authority is responsible, forms the opinion that the child has, or probably has, additional learning needs.
- (2) The health bodies are –
  - (a) a Local Health Board;
  - (b) an NHS trust;
  - (c) a clinical commissioning group;
  - (d) an NHS foundation trust;
  - (e) a Special Health Authority.
- (3) The health body must inform the child’s parent of its opinion and of its duty in subsection (4).

- (4) Ar ôl rhoi cyfle i'r rhiant i drafod barn y corff iechyd â swyddog o'r corff, rhaid i'r corff iechyd ddwyn y farn i sylw'r awdurdod lleol sy'n gyfrifol am y plentyn neu, os yw'r plentyn yn blentyn sy'n derbyn gofal, i sylw'r awdurdod lleol sy'n gofalu am y plentyn, os yw'r corff iechyd wedi ei fodloni y byddai gwneud hynny er lles pennaf y plentyn.
- (5) Os yw'r corff iechyd o'r farn bod sefydliad gwirfoddol penodol yn debygol o allu rhoi cyngor neu gymorth arall i'r rhiant mewn cysylltiad ag unrhyw anghenion dysgu ychwanegol a all fod gan y plentyn, rhaid iddo roi gwybod i'r rhiant yn unol â hynny.

## **65 Dyletswyddau i ddarparu gwybodaeth a help arall**

- (1) Mae is-adran (2) yn gymwys os yw awdurdod lleol yn gofyn i berson a grybwyllir yn is-adran (4) arfer swyddogaethau'r person i ddarparu gwybodaeth neu help arall i'r awdurdod, sy'n ofynnol ganddo at ddiben arfer ei swyddogaethau o dan y Rhan hon.
- (2) Rhaid i'r person gydymffurfio â'r cais oni bai bod y person yn ystyried y byddai gwneud hynny –
  - (a) yn anghydnaws â dyletswyddau'r person ei hun, neu
  - (b) fel arall yn cael effaith andwyol ar arfer swyddogaethau'r person.
- (3) Rhaid i berson sy'n penderfynu peidio â chydymffurfio â chais o dan is-adran (1) roi rhesymau ysgrifenedig dros y penderfyniad i'r awdurdod lleol a wnaeth y cais.
- (4) Y personau yw –
  - (a) awdurdod lleol arall;
  - (b) awdurdod lleol yn Lloegr;
  - (c) corff llywodraethu ysgol a gynhelir yng Nghymru neu yn Lloegr;
  - (d) corff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu yn Lloegr;
  - (e) perchennog Academi;
  - (f) tîm troseddwy'r ifanc ar gyfer ardal yng Nghymru neu yn Lloegr;
  - (g) person a chanddo gyfrifoldeb am lety ieuencid perthnasol yng Nghymru neu yn Lloegr;
  - (h) Bwrdd Iechyd Lleol;
  - (i) ymddiriedolaeth GIG;
  - (j) Bwrdd Comisiynu'r Gwasanaeth Iechyd Gwladol;
  - (k) grŵp comisiynu clinigol;
  - (l) ymddiriedolaeth sefydledig GIG;
  - (m) Awdurdod Iechyd Arbennig.
- (5) Caiff rheoliadau ddarparu, pan fo person o dan ddyletswydd i gydymffurfio â chais o dan yr adran hon, fod rhaid i'r person gydymffurfio â'r cais o fewn cyfnod rhagnodedig, oni bai bod eithriad rhagnodedig yn gymwys.

- (4) After giving the parent an opportunity to discuss the health body's opinion with an officer of the body, the health body must bring it to the attention of the local authority that is responsible for the child or, if the child is looked after, to the attention of the local authority that looks after the child, if the health body is satisfied that doing so would be in the best interests of the child.
- (5) If the health body is of the opinion that a particular voluntary organisation is likely to be able to give the parent advice or other assistance in connection with any additional learning needs that the child may have, it must inform the parent accordingly.

**65 Duties to provide information and other help**

- (1) Subsection (2) applies if a local authority requests a person mentioned in subsection (4) to exercise the person's functions to provide the authority with information or other help, which it requires for the purpose of exercising its functions under this Part.
- (2) The person must comply with the request unless the person considers that doing so would—
  - (a) be incompatible with the person's own duties, or
  - (b) otherwise have an adverse effect on the exercise of the person's functions.
- (3) A person that decides not to comply with a request under subsection (1) must give the local authority that made the request written reasons for the decision.
- (4) The persons are—
  - (a) another local authority;
  - (b) a local authority in England;
  - (c) the governing body of a maintained school in Wales or England;
  - (d) the governing body of an institution in the further education sector in Wales or England;
  - (e) the proprietor of an Academy;
  - (f) a youth offending team for an area in Wales or England;
  - (g) a person in charge of relevant youth accommodation in Wales or England;
  - (h) a Local Health Board;
  - (i) an NHS trust;
  - (j) the National Health Service Commissioning Board;
  - (k) a clinical commissioning group;
  - (l) an NHS foundation trust;
  - (m) a Special Health Authority.
- (5) Regulations may provide that, where a person is under a duty to comply with a request under this section, the person must comply with the request within a prescribed period, unless a prescribed exception applies.

**66 Hawl awdurdod lleol i gael mynediad i fangroedd ysgolion a sefydliadau eraill**

- (1) Mae'r adran hon yn gymwys pan fo awdurdod lleol yn cynnal cynllun datblygu unigol o dan y Rhan hon ar gyfer plentyn neu berson ifanc.
- (2) Mae hawl gan berson sydd wedi ei awdurdodi gan yr awdurdod lleol i gael mynediad ar unrhyw adeg resymol i unrhyw fan lle y darperir addysg neu hyfforddiant ar gyfer y plentyn neu'r person ifanc ym mangre sefydliad a restrir yn is-adran (3) os yw mynediad i'r man hwnnw'n angenrheidiol at ddiben arfer swyddogaethau'r awdurdod lleol o dan y Rhan hon.
- (3) Y sefydliadau yw –
  - (a) ysgol annibynnol yng Nghymru neu yn Lloegr;
  - (b) ysgol a gynhelir yn ardal awdurdod lleol arall yng Nghymru neu yn Lloegr;
  - (c) sefydliad yn y sector addysg bellach yng Nghymru neu yn Lloegr;
  - (d) Academi;
  - (e) ysgol arbennig nas cynhelir;
  - (f) sefydliad ôl-16 arbennig annibynnol sydd wedi ei gynnwys yn y rhestr o dan adran 56.

**67 Darparu nwyddau neu wasanaethau mewn perthynas â darpariaeth ddysgu ychwanegol**

- (1) Caiff rheoliadau ddarparu i awdurdod lleol gyflenwi nwyddau neu wasanaethau i –
  - (a) person sy'n arfer swyddogaethau o dan y Rhan hon, neu
  - (b) person sy'n gwneud darpariaeth ddysgu ychwanegol mewn cysylltiad ag arfer swyddogaethau o dan y Rhan hon.
- (2) Caiff y rheoliadau, ymhlith pethau eraill, ddarparu ar gyfer y telerau a'r amodau y caniateir i nwyddau a gwasanaethau gael eu cyflenwi yn unol â hwy.

**PENNOD 4****OSGOI A DATRYS ANGHYTUNDEBAU***Trefniadau awdurdodau lleol***68 Trefniadau ar gyfer osgoi a datrys anghytundebau**

- (1) Rhaid i awdurdod lleol wneud trefniadau gyda golwg ar osgoi a datrys anghytundebau rhwng –
  - (a) cyrff addysg, a
  - (b) plant neu bobl ifanc y mae'r awdurdod yn gyfrifol amdanynt, neu yn achos plant o'r fath, eu rhieni,
 ynghylch arfer gan gyrff addysg eu swyddogaethau o dan y Rhan hon.
- (2) Rhaid i awdurdod lleol wneud trefniadau gyda golwg ar osgoi a datrys anghytundebau rhwng –



**66 Right of local authority to access premises of schools and other institutions**

- (1) This section applies where a local authority maintains an individual development plan under this Part for a child or young person.
- (2) A person authorised by the local authority is entitled to have access at any reasonable time to any place where education or training is provided for the child or young person at the premises of an institution listed in subsection (3) if access to the place is necessary for the purpose of exercising the local authority's functions under this Part.
- (3) The institutions are—
  - (a) an independent school in Wales or England;
  - (b) a maintained school in the area of another local authority in Wales or England;
  - (c) an institution within the further education sector in Wales or England;
  - (d) an Academy;
  - (e) a non-maintained special school;
  - (f) an independent special post-16 institution included in the list under section 56.

**67 Provision of goods or services in relation to additional learning provision**

- (1) Regulations may provide for a local authority to supply goods or services to—
  - (a) a person exercising functions under this Part, or
  - (b) a person making additional learning provision in connection with the exercise of functions under this Part.
- (2) The regulations may, among other things, provide for the terms and conditions on which goods and services may be supplied.

**CHAPTER 4**

**AVOIDING AND RESOLVING DISAGREEMENTS**

*Local authority arrangements*

**68 Arrangements for the avoidance and resolution of disagreements**

- (1) A local authority must make arrangements with a view both to avoiding and to resolving disagreements between—
  - (a) education bodies, and
  - (b) children or young people for whom the authority is responsible, or in the case of such children, their parents,about the exercise by education bodies of their functions under this Part.
- (2) A local authority must make arrangements with a view both to avoiding and to resolving disagreements between—

- (a) perchenogion sefydliadau perthnasol, a
  - (b) plant neu bobl ifanc y mae'r awdurdod yn gyfrifol amdanynt ac sydd ag anghenion dysgu ychwanegol ac, yn achos plant o'r fath, eu rhieni,
- ynghylch y ddarpariaeth ddysgu ychwanegol a wneir ar gyfer plant neu bobl ifanc.
- (3) Rhaid i'r trefniadau o dan is-adrannau (1) a (2) gynnwys darpariaeth i bartïon mewn anghytundeb gael mynediad at help i'w ddatrys oddi wrth bersonau sy'n annibynnol ar y partïon.
  - (4) Rhaid i awdurdod lleol hybu'r defnydd o'r trefniadau a wneir o dan yr adran hon.
  - (5) Rhaid i awdurdod lleol gymryd camau rhesymol i roi gwybod i blant, eu rhieni a phobl ifanc nad yw trefniadau a wneir o dan yr adran hon yn effeithio ar unrhyw hawliau a all fod ganddynt i apelio i Dribiwnlys Addysg Cymru.
  - (6) Yn yr adran hon, ystyr "corff addysg" yw unrhyw un o'r canlynol—
    - (a) corff llywodraethu ysgol a gynhelir;
    - (b) corff llywodraethu sefydliad yn y sector addysg bellach;
    - (c) awdurdod lleol.
  - (7) Yn yr adran hon, ystyr "sefydliad perthnasol" yw —
    - (a) ysgol a gynhelir yng Nghymru neu yn Lloegr;
    - (b) sefydliad yn y sector addysg bellach yng Nghymru neu yn Lloegr;
    - (c) sefydliad ôl-16 arbennig annibynnol ar y rhestr a gynhelir o dan adran 56;
    - (d) ysgol annibynnol yng Nghymru neu yn Lloegr;
    - (e) ysgol arbennig nas cynhelir;
    - (f) Academi.
  - (8) At ddibenion yr adran hon ac adran 69 mae awdurdod lleol hefyd yn gyfrifol am blant y mae'n gofalu amdanynt nad ydynt yn ei ardal.

## **69 Gwasanaethau eirioli annibynnol**

- (1) Rhaid i awdurdod lleol—
  - (a) gwneud trefniadau ar gyfer darparu gwasanaethau eirioli annibynnol ar gyfer y plant a'r bobl ifanc y mae'n gyfrifol amdanynt;
  - (b) atgyfeirio unrhyw blentyn neu berson ifanc y mae'n gyfrifol amdano sy'n gofyn am wasanaethau eirioli annibynnol i ddarparwr gwasanaeth eirioli annibynnol;
  - (c) atgyfeirio unrhyw berson sy'n gyfaill achos i blentyn y mae'n gyfrifol amdano ac sy'n gofyn am wasanaethau eirioli annibynnol i ddarparwr gwasanaeth eirioli annibynnol.
- (2) Yn yr adran hon ystyr "gwasanaethau eirioli annibynnol" yw cyngor a chymorth (drwy gynrychiolaeth neu fel arall) i blentyn, person ifanc neu gyfaill achos—
  - (a) sy'n gwneud, neu sy'n bwriadu gwneud, apêl i Dribiwnlys Addysg Cymru o dan y Rhan hon,
  - (b) sy'n ystyried pa un ai i apelio i'r Tribiwnlys ai peidio, neu

- (a) proprietors of relevant institutions, and
  - (b) children or young people who have additional learning needs for whom the authority is responsible and, in the case of such children, their parents,
- about the additional learning provision made for children or young people.
- (3) The arrangements under subsections (1) and (2) must include provision for parties to a disagreement to access help in resolving it from persons who are independent of the parties.
  - (4) A local authority must promote the use of the arrangements made under this section.
  - (5) A local authority must take reasonable steps to inform children, their parents and young people that arrangements made under this section do not affect any rights they may have to appeal to the Education Tribunal for Wales.
  - (6) In this section, an “education body” means any of the following –
    - (a) the governing body of a maintained school;
    - (b) the governing body of an institution in the further education sector;
    - (c) a local authority.
  - (7) In this section, “relevant institution” means –
    - (a) a maintained school in Wales or England;
    - (b) an institution in the further education sector in Wales or England;
    - (c) an independent special post-16 institution on the list maintained under section 56;
    - (d) an independent school in Wales or England;
    - (e) a non-maintained special school;
    - (f) an Academy.
  - (8) For the purposes of this section and section 69 a local authority is also responsible for children it looks after who are not in its area.

## **69 Independent advocacy services**

- (1) A local authority must –
  - (a) make arrangements for the provision of independent advocacy services for the children and young people for whom it is responsible;
  - (b) refer any child or young person for whom it is responsible who requests independent advocacy services to an independent advocacy service provider;
  - (c) refer any person who is a case friend for a child for whom it is responsible and who requests independent advocacy services to an independent advocacy service provider.
- (2) In this section “independent advocacy services” means advice and assistance (by way of representation or otherwise) to a child, a young person or a case friend –
  - (a) making, or intending to make, an appeal to the Education Tribunal for Wales under this Part,
  - (b) considering whether to appeal to the Tribunal, or

- (c) sy'n cymryd rhan, neu sy'n bwriadu cymryd rhan, mewn trefniadau a wneir o dan adran 68.
- (3) Wrth wneud trefniadau o dan yr adran hon, rhaid i awdurdod lleol roi sylw i'r egwyddor bod rhaid i unrhyw wasanaethau a ddarperir o dan y trefniadau fod yn annibynnol ar unrhyw berson sydd—
  - (a) yn destun apêl i'r Tribiwnlys, neu
  - (b) yn ymwneud ag ymchwilio i apêl o'r fath neu ddyfarnu arni.
- (4) Caiff y trefniadau gynnwys darpariaeth i'r awdurdod lleol wneud taliadau i unrhyw berson, neu mewn perthynas ag unrhyw berson, sy'n cyflawni swyddogaethau yn unol â'r trefniadau a wneir o dan yr adran hon.

*Apelau a cheisiadau i'r Tribiwnlys*

**70 Hawliau o ran apelau a cheisiadau**

- (1) Mae is-adran (2) yn gymwys—
  - (a) i benderfyniadau corff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu awdurdod lleol;
  - (b) i gynlluniau datblygu unigol a lunnir neu a gynhelir gan gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu awdurdod lleol;
  - (c) i gynlluniau datblygu unigol a ddiwygir gan awdurdod lleol o dan adran 27(6).
- (2) Caiff plentyn neu berson ifanc ac, yn achos plentyn, rhiant y plentyn, apelio i Dribiwnlys Addysg Cymru yn erbyn y materion a ganlyn—
  - (a) penderfyniad gan gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru o dan adran 11 neu gan awdurdod lleol o dan adran 13, 18 neu 26 o ran a oes gan berson anghenion dysgu ychwanegol;
  - (b) yn achos person ifanc, penderfyniad gan awdurdod lleol o dan adran 14(1)(c)(ii) o ran a oes angen llunio a chynnal cynllun datblygu unigol;
  - (c) y disgrifiad o anghenion dysgu ychwanegol person mewn cynllun datblygu unigol;
  - (d) y ddarpariaeth ddysgu ychwanegol mewn cynllun datblygu unigol neu'r ffaith nad yw darpariaeth ddysgu ychwanegol mewn cynllun (gan gynnwys a yw'r cynllun yn pennu y dylai darpariaeth ddysgu ychwanegol gael ei darparu yn Gymraeg);
  - (e) y ddarpariaeth a gynhwysir mewn cynllun datblygu unigol o dan adran 14(6) neu 19(4) neu'r ffaith nad yw darpariaeth o dan yr adrannau hynny yn y cynllun;
  - (f) yr ysgol a enwir mewn cynllun datblygu unigol at ddiben adran 48;
  - (g) os nad enwir ysgol mewn cynllun datblygu unigol at ddiben adran 48, y ffaith honno;
  - (h) penderfyniad o dan adran 27 i beidio â diwygio cynllun datblygu unigol;
  - (i) penderfyniad o dan adran 28 i beidio â chymryd drosodd y cyfrifoldeb am gynllun datblygu unigol yn dilyn cais i ystyried gwneud hynny;

- (c) taking part in or intending to take part in arrangements made under section 68.
- (3) In making arrangements under this section, a local authority must have regard to the principle that any services provided under the arrangements must be independent of any person who is –
  - (a) the subject of an appeal to the Tribunal, or
  - (b) involved in investigating or adjudicating on such an appeal.
- (4) The arrangements may include provision for the local authority to make payments to, or in relation to, any person carrying out functions in accordance with the arrangements made under this section.

*Appeals and applications to the Tribunal*

**70 Appeal and application rights**

- (1) Subsection (2) applies to –
  - (a) decisions of the governing body of an institution in the further education sector in Wales or a local authority;
  - (b) individual development plans prepared or maintained by the governing body of an institution in the further education sector in Wales or a local authority;
  - (c) individual development plans revised by a local authority under section 27(6).
- (2) A child or young person and, in the case of a child, the child’s parent, may appeal to the Education Tribunal for Wales against the following matters –
  - (a) a decision by the governing body of an institution in the further education sector in Wales under section 11 or a local authority under section 13, 18 or 26 as to whether a person has additional learning needs;
  - (b) in the case of a young person, a decision by a local authority under section 14(1)(c)(ii) as to whether it is necessary to prepare and maintain an individual development plan;
  - (c) the description of a person’s additional learning needs in an individual development plan;
  - (d) the additional learning provision in an individual development plan or the fact that additional learning provision is not in a plan (including whether the plan specifies that additional learning provision should be provided in Welsh);
  - (e) the provision included in an individual development plan under section 14(6) or 19(4) or the fact that provision under those sections is not in the plan;
  - (f) the school named in an individual development plan for the purpose of section 48;
  - (g) if no school is named in an individual development plan for the purpose of section 48, that fact;
  - (h) a decision under section 27 not to revise an individual development plan;
  - (i) a decision under section 28 not to take over responsibility for an individual development plan following a request to consider doing so;

- (j) penderfyniad i beidio â chynnal cynllun datblygu unigol o dan adran 31(5) neu 31(6);
  - (k) penderfyniad o dan adran 32(2) y dylai corff llywodraethu ysgol a gynhelir beidio â chynnal cynllun;
  - (l) gwrthodiad i benderfynu ar fater ar y sail bod adran 11(3)(b), 13(2)(b), 18(2)(b) neu 29(2)(a) yn gymwys (dim newid sylweddol mewn anghenion a dim gwybodaeth newydd sy'n effeithio'n sylweddol ar y penderfyniad).
- (3) Caiff plentyn neu riant plentyn wneud cais i Dribiwnlys Addysg Cymru am ddatganiad bod gan y plentyn y galluedd neu nad oes ganddo'r galluedd i ddeall –
- (a) gwybodaeth y mae rhaid ei rhoi i blentyn neu ddogfennau y mae rhaid eu rhoi i blentyn o dan y Rhan hon, neu
  - (b) yr hyn y mae arfer yr hawliau a roddir i blentyn gan y Rhan hon yn ei olygu.
- (4) Mae arfer hawliau o dan yr adran hon yn ddarostyngedig i –
- (a) darpariaeth a wneir gan reoliadau o dan adrannau 74, 75, 83 ac 85(8);
  - (b) adran 85(4).

## **71 Penderfyniadau ar apelau a cheisiadau o dan adran 70**

- (1) Ar apêl o dan adran 70(2), caiff Tribiwnlys Addysg Cymru –
- (a) gwrthod yr apêl;
  - (b) gorchymyn bod gan berson, neu nad oes gan berson, anghenion dysgu ychwanegol o fath a bennir yn y gorchymyn;
  - (c) gorchymyn i gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu awdurdod lleol lunio cynllun datblygu unigol;
  - (d) gorchymyn i gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu awdurdod lleol ddiwygio cynllun datblygu unigol fel a bennir yn y gorchymyn;
  - (e) gorchymyn i gorff llywodraethu ysgol a gynhelir yng Nghymru neu gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu awdurdod lleol barhau i gynnal cynllun datblygu unigol (gyda diwygiadau neu hebddynt);
  - (f) gorchymyn i awdurdod lleol gymryd drosodd y cyfrifoldeb am gynnal cynllun datblygu unigol;
  - (g) gorchymyn i gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru neu awdurdod lleol adolygu cynllun datblygu unigol;
  - (h) anfon yr achos yn ôl i gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru sy'n gyfrifol am y mater neu i'r awdurdod lleol sy'n gyfrifol am y mater er mwyn iddo ailystyried, ar ôl rhoi sylw i unrhyw sylwadau a wneir gan y Tribiwnlys, a oes angen gwneud penderfyniad gwahanol neu gymryd camau gwahanol.
- (2) Ar gais o dan adran 70(3) mewn cysylltiad â phlentyn, caiff Tribiwnlys Addysg Cymru ddatgan naill ai bod gan y plentyn y galluedd neu nad oes ganddo'r galluedd i ddeall –

- (j) a decision to cease to maintain an individual development plan under section 31(5) or 31(6);
  - (k) a decision under section 32(2) that a governing body of a maintained school should cease to maintain a plan;
  - (l) a refusal to decide a matter on the basis that section 11(3)(b), 13(2)(b), 18(2)(b) or 29(2)(a) applies (no material change in needs and no new information that materially affects the decision).
- (3) A child or a child's parent may apply to the Education Tribunal for Wales for a declaration that the child either does or does not have the capacity to understand –
- (a) information or documents that must be given to a child under this Part, or
  - (b) what it means to exercise the rights conferred on a child by this Part.
- (4) The exercise of rights under this section is subject to –
- (a) provision made by regulations under sections 74, 75, 83 and 85(8);
  - (b) section 85(4).

## **71 Decisions on appeals and applications under section 70**

- (1) On appeal under section 70(2), the Education Tribunal for Wales may –
- (a) dismiss the appeal;
  - (b) order that a person has, or does not have, additional learning needs of a kind specified in the order;
  - (c) order the governing body of an institution in the further education sector in Wales or a local authority to prepare an individual development plan;
  - (d) order the governing body of an institution in the further education sector in Wales or a local authority to revise an individual development plan as specified in the order;
  - (e) order a governing body of a maintained school in Wales or an institution in the further education sector in Wales or local authority to continue to maintain an individual development plan (with or without revisions);
  - (f) order a local authority to take over responsibility for maintaining an individual development plan;
  - (g) order a governing body of an institution in the further education sector in Wales or local authority to review an individual development plan;
  - (h) remit the case to the governing body of an institution in the further education sector in Wales or local authority responsible for the matter for it to reconsider whether, having regard to any observations made by the Tribunal, it is necessary for a different decision to be made or different action to be taken.
- (2) On application under section 70(3) in respect of a child, the Education Tribunal for Wales may declare that the child either does or does not have the capacity to understand –

- (a) gwybodaeth y mae rhaid ei rhoi neu ddogfennau y mae rhaid eu rhoi i blentyn o dan y Rhan hon, neu
- (b) yr hyn y mae arfer yr hawliau a roddir i blentyn gan y Rhan hon yn ei olygu.

## **72 Hawliau o ran apelio: personau sy'n cael eu cadw'n gaeth**

- (1) Mae is-adran (2) yn gymwys –
  - (a) i benderfyniadau awdurdod cartref yng Nghymru o dan adran 40;
  - (b) i gynlluniau datblygu unigol a gedwir gan awdurdod cartref o dan adran 42.
- (2) Caiff person sy'n cael ei gadw'n gaeth ac, yn achos person sy'n cael ei gadw'n gaeth sy'n blentyn, rhiant y person sy'n cael ei gadw'n gaeth, apelio i Dribiwnlys Addysg Cymru yn erbyn y materion a ganlyn –
  - (a) penderfyniad gan yr awdurdod cartref o ran a oes gan berson sy'n cael ei gadw'n gaeth anghenion dysgu ychwanegol;
  - (b) penderfyniad gan yr awdurdod cartref o ran a fydd angen i gynllun datblygu unigol gael ei gynnal ar gyfer person sy'n cael ei gadw'n gaeth pan gaiff y person ei ryddhau;
  - (c) y disgrifiad o anghenion dysgu ychwanegol person mewn cynllun datblygu unigol;
  - (d) y ddarpariaeth ddysgu ychwanegol mewn cynllun datblygu unigol neu'r ffaith nad yw darpariaeth ddysgu ychwanegol mewn cynllun (gan gynnwys a yw'r cynllun yn pennu y dylai darpariaeth ddysgu ychwanegol gael ei darparu yn Gymraeg);
  - (e) y ddarpariaeth sydd wedi ei chynnwys mewn cynllun datblygu unigol o dan adran 40(7) neu'r ffaith nad yw darpariaeth o dan o dan yr adran honno yn y cynllun;
  - (f) yr ysgol a enwir mewn cynllun datblygu unigol at ddiben adran 48;
  - (g) os nad enwir ysgol mewn cynllun datblygu unigol at ddiben adran 48, y ffaith honno;
  - (h) gwrthodiad i wneud penderfyniad o dan adran 40(2) ar y sail bod adran 41(2)(b) yn gymwys (dim newid sylweddol mewn anghenion a dim gwybodaeth newydd sy'n effeithio'n sylweddol ar y penderfyniad).
- (3) Mae arfer hawliau o dan yr adran hon yn ddarostyngedig i –
  - (a) darpariaeth a wneir gan reoliadau o dan adrannau 74, 75, 83 ac 85(8);
  - (b) adran 85(4).

## **73 Penderfyniadau ar apelau o dan adran 72**

Ar apêl o dan adran 72, caiff Tribiwnlys Addysg Cymru –

- (a) gwrthod yr apêl;
- (b) gorchymyn bod gan berson sy'n cael ei gadw'n gaeth neu nad oes gan berson sy'n cael ei gadw'n gaeth anghenion dysgu ychwanegol o fath a bennir yn y gorchymyn;



- (a) information or documents that must be given to a child under this Part, or
- (b) what it means to exercise the rights conferred on a child by this Part.

## **72 Appeal rights: detained persons**

- (1) Subsection (2) applies to –
  - (a) decisions of a home authority in Wales under section 40;
  - (b) individual development plans kept by a home authority under section 42.
- (2) A detained person and, in the case of a detained person who is a child, the detained person’s parent, may appeal to the Education Tribunal for Wales against the following matters –
  - (a) a decision of the home authority as to whether a detained person has additional learning needs;
  - (b) a decision of the home authority as to whether it will be necessary for an individual development plan to be maintained for a detained person when he or she is released from detention;
  - (c) the description of a person’s additional learning needs in an individual development plan;
  - (d) the additional learning provision in an individual development plan or the fact that additional learning provision is not in a plan (including whether the plan specifies that additional learning provision should be provided in Welsh);
  - (e) the provision included in an individual development plan under section 40(7) or the fact that provision under that section is not in the plan;
  - (f) the school named in an individual development plan for the purpose of section 48;
  - (g) if no school is named in an individual development plan for the purpose of section 48, that fact;
  - (h) a refusal to make a decision under section 40(2) on the basis that section 41(2)(b) applies (no material change in needs and no new information that materially affects the decision).
- (3) The exercise of rights under this section is subject to –
  - (a) provision made by regulations under sections 74, 75, 83 and 85(8);
  - (b) section 85(4).

## **73 Decisions on appeals under section 72**

On appeal under section 72, the Education Tribunal for Wales may –

- (a) dismiss the appeal;
- (b) order that a detained person has or does not have additional learning needs of a kind specified in the order;

- (c) gorchymyn i awdurdod cartref lunio cynllun datblygu unigol;
- (d) gorchymyn i awdurdod cartref ddiwygio cynllun datblygu unigol fel a bennir yn y gorchymyn;
- (e) anfon yr achos yn ôl i'r awdurdod cartref sy'n gyfrifol am y mater er mwyn iddo ailystyried, ar ôl rhoi sylw i unrhyw sylwadau a wneir gan y Tribiwnlys, a oes angen gwneud penderfyniad gwahanol neu gymryd camau gwahanol.

#### **74 Rheoliadau ynghylch apelau a cheisiadau**

- (1) Caiff rheoliadau wneud darpariaeth bellach ynghylch apelau a cheisiadau i Dribiwnlys Addysg Cymru o dan y Rhan hon, gan gynnwys, er enghraifft, ddarpariaeth—
  - (a) ynghylch materion eraill yn ymwneud â chynllun datblygu unigol y gellir dwyn apêl yn ei erbyn;
  - (b) ynghylch gwneud apelau neu geisiadau a dyfarnu arnynt;
  - (c) sy'n rhoi pwerau pellach i'r Tribiwnlys wrth ddyfarnu ar apelau neu geisiadau;
  - (d) ar gyfer apelau neu geisiadau heb wrthwynebiad.
- (2) Caiff rheoliadau o dan is-adran (1)(c) gynnwys darpariaeth sy'n rhoi pŵer i'r Tribiwnlys, wrth ddyfarnu ar apêl yn erbyn mater neu wrth ddyfarnu ar gais, i wneud argymhellion mewn cysylltiad â materion eraill (gan gynnwys materion na chaniateir i apêl gael ei dwyn neu i gais gael ei ddwyn yn eu herbyn).

#### **75 Rheoliadau ynghylch y weithdrefn**

- (1) Caiff rheoliadau wneud darpariaeth ynghylch—
  - (a) cychwyn apêl neu gais o dan y Rhan hon;
  - (b) trafodion Tribiwnlys Addysg Cymru ar apêl neu gais o dan y Rhan hon.
- (2) Caiff rheoliadau o dan is-adran (1) gynnwys darpariaeth—
  - (a) o ran y cyfnod y mae apelau neu geisiadau i gael eu cychwyn ynddo a'r dull ar gyfer cychwyn apelau neu geisiadau;
  - (b) pan fo awdurdodaeth y Tribiwnlys yn cael ei harfer gan fwy nag un tribiwnlys—
    - (i) ar gyfer penderfynu pa dribiwnlys sydd i wrando ar unrhyw apêl neu gais, a
    - (ii) ar gyfer trosglwyddo trafodion o un tribiwnlys i dribiwnlys arall;
  - (c) ar gyfer galluogi i unrhyw swyddogaethau sy'n ymwneud â materion sy'n rhagarweiniol i apêl neu gais neu faterion sy'n gysylltiedig ag apêl neu gais gael eu cyflawni gan y Llywydd neu gan y cadeirydd cyfreithiol;
  - (d) i wrandawiadau gael eu cynnal yn absenoldeb aelod ac eithrio'r cadeirydd cyfreithiol;
  - (e) o ran y personau a gaiff ymddangos ar ran y partïon;
  - (f) ar gyfer rhoi unrhyw hawliau o ran datgelu neu arolygu dogfennau neu o ran manylion pellach y caniateir i'r llys sirol eu rhoi;
  - (g) sy'n ei gwneud yn ofynnol i bersonau fod yn bresennol i roi tystiolaeth a dangos dogfennau;

- (c) order a home authority to prepare an individual development plan;
- (d) order a home authority to revise an individual development plan as specified in the order;
- (e) remit the case to the home authority responsible for the matter for it to reconsider whether, having regard to any observations made by the Tribunal, it is necessary for a different decision to be made or different action to be taken.

**74 Regulations about appeals and applications**

- (1) Regulations may make further provision about appeals and applications to the Education Tribunal for Wales under this Part, including, for example, provision—
  - (a) about other matters relating to an individual development plan against which appeals may be brought;
  - (b) about making and determining appeals or applications;
  - (c) conferring further powers on the Tribunal on determining appeals or applications;
  - (d) for unopposed appeals or applications.
- (2) Regulations under subsection (1)(c) may include provision conferring power on the Tribunal, on determining an appeal against a matter or an application, to make recommendations in respect of other matters (including matters against which no appeal or application may be brought).

**75 Regulations about procedure**

- (1) Regulations may make provision about—
  - (a) the initiation of an appeal or application under this Part;
  - (b) the proceedings of the Education Tribunal for Wales on an appeal or application under this Part.
- (2) Regulations under subsection (1) may include provision—
  - (a) as to the period within which, and the manner in which, appeals or applications are to be commenced;
  - (b) where the jurisdiction of the Tribunal is being exercised by more than one tribunal—
    - (i) for determining by which tribunal any appeal or application is to be heard, and
    - (ii) for the transfer of proceedings from one tribunal to another;
  - (c) for enabling any functions relating to matters preliminary or incidental to an appeal or application to be performed by the President or by the legal chair;
  - (d) for hearings to be conducted in the absence of a member other than the legal chair;
  - (e) as to the persons who may appear on behalf of the parties;
  - (f) for granting such rights to disclosure or inspection of documents or to further particulars as may be granted by the county court;
  - (g) requiring persons to attend to give evidence and produce documents;

- (h) ar gyfer awdurdodi i lwon gael eu gweinyddu ar gyfer tystion;
  - (i) ar gyfer dyfarnu ar apelau neu geisiadau heb wrandawriad o dan amgylchiadau rhagnodedig;
  - (j) o ran tynnu apelau neu geisiadau yn ôl;
  - (k) o ran dyfarnu costau neu dreuliau;
  - (l) ar gyfer asesu neu setlo fel arall unrhyw gostau neu dreuliau (ac, yn benodol, ar gyfer galluogi i gostau neu dreuliau o'r fath gael eu hasesu yn y llys sirol);
  - (m) ar gyfer cofrestru penderfyniadau a gorchmynion a chael prawf ohonynt;
  - (n) ar gyfer galluogi'r Tribiwnlys i adolygu ei benderfyniadau, neu i ddirymu neu amrywio ei orchmynion, o dan amgylchiadau rhagnodedig;
  - (o) ar gyfer galluogi'r Tribiwnlys i atal trafodion;
  - (p) ar gyfer ychwanegu ac amnewid partïon;
  - (q) ar gyfer galluogi delio ag apelau neu geisiadau gan bersonau gwahanol gyda'i gilydd;
  - (r) i apêl neu gais o dan y Rhan hon gael ei gwrando neu ei wrando, o dan amgylchiadau a ragnodir yn y rheoliadau, gyda hawliad o dan Bennod 1 o Ran 6 o Ddeddf Cydraddoldeb 2010 (p. 15).
- (3) Rhaid i drafodion gerbron y Tribiwnlys gael eu cynnal yn breifat, ac eithrio o dan amgylchiadau rhagnodedig.
- (4) Nid yw Rhan 1 o Ddeddf Cymrodeddu 1996 (p. 23) yn gymwys i unrhyw drafodion gerbron y Tribiwnlys, ond caiff rheoliadau wneud darpariaeth sy'n cyfateb i unrhyw ddarpariaeth yn y Rhan honno.

## **76 Cyrff GIG: tystiolaeth ac argymhellion y Tribiwnlys**

- (1) Caiff Tribiwnlys Addysg Cymru, mewn perthynas ag apêl o dan y Rhan hon, –
- (a) arfer ei swyddogaethau i'w gwneud yn ofynnol i gorff GIG roi tystiolaeth ynghylch arfer swyddogaethau'r corff;
  - (b) gwneud argymhellion i gorff GIG ynghylch arfer swyddogaethau'r corff.
- (2) Nid oes dim yn is-adran (1) sy'n effeithio ar gyffredinolrwydd y pwerau i wneud rheoliadau yn adrannau 74 a 75.
- (3) Rhaid i gorff GIG y gwnaed argymhelliad iddo gan y Tribiwnlys lunio adroddiad i'r Tribiwnlys cyn diwedd unrhyw gyfnod rhagnodedig sy'n dechrau â'r dyddiad y gwneir yr argymhelliad.
- (4) Rhaid i'r adroddiad o dan is-adran (3) nodi –
- (a) y camau y mae'r corff GIG wedi eu cymryd neu'n bwriadu eu cymryd mewn ymateb i'r argymhelliad, neu
  - (b) pam nad yw'r corff GIG wedi cymryd unrhyw gamau a pham nad yw'n bwriadu cymryd unrhyw gamau mewn ymateb i'r argymhelliad.

- (h) for authorising the administration of oaths to witnesses;
  - (i) for the determination of appeals or applications without a hearing in prescribed circumstances;
  - (j) as to withdrawal of appeals or applications;
  - (k) as to the award of costs or expenses;
  - (l) for assessing or otherwise settling any costs or expenses (and, in particular, for enabling such costs or expenses to be assessed in the county court);
  - (m) for the registration and proof of decisions and orders;
  - (n) for enabling the Tribunal to review its decisions, or revoke or vary its orders, in prescribed circumstances;
  - (o) for enabling the Tribunal to stay proceedings;
  - (p) for adding and substituting parties;
  - (q) for enabling appeals or applications by different persons to be dealt with together;
  - (r) for an appeal or application under this Part to be heard, in circumstances prescribed in the regulations, with a claim under Chapter 1 of Part 6 of the Equality Act 2010 (c. 15).
- (3) Proceedings before the Tribunal must be held in private, except in prescribed circumstances.
- (4) Part 1 of the Arbitration Act 1996 (c. 23) does not apply to any proceedings before the Tribunal but regulations may make provision corresponding to any provision of that Part.

## **76 NHS Bodies: evidence and Tribunal recommendations**

- (1) The Education Tribunal for Wales may, in relation to an appeal under this Part, –
- (a) exercise its functions to require an NHS body to give evidence about the exercise of the body’s functions;
  - (b) make recommendations to an NHS body about the exercise of the body’s functions.
- (2) Nothing in subsection (1) affects the generality of the powers to make regulations in sections 74 and 75.
- (3) An NHS body to whom a recommendation has been made by the Tribunal must make a report to the Tribunal before the end of any prescribed period beginning with the date on which the recommendation is made.
- (4) The report under subsection (3) must state –
- (a) the action that the NHS body has taken or proposes to take in response to the recommendation, or
  - (b) why the NHS body has not taken and does not propose to take any action in response to the recommendation.

**77 Cydymffurfedd â gorchymynion**

- (1) Os yw Tribiwnlys Addysg Cymru yn gwneud gorchymyn o dan y Rhan hon, rhaid i'r corff llywodraethu neu'r awdurdod lleol o dan sylw gydymffurfio â'r gorchymyn cyn diwedd unrhyw gyfnod rhagnodedig sy'n dechrau â'r dyddiad y caiff ei wneud.
- (2) Rhaid i'r corff llywodraethu neu'r awdurdod lleol o dan sylw lunio adroddiad i'r Tribiwnlys yn datgan a yw wedi cydymffurfio â'r gorchymyn a sut y gwnaeth gydymffurfio â'r gorchymyn, cyn diwedd cyfnod o 14 o ddiwrnodau sy'n dechrau â'r diwrnod cyntaf ar ôl diwedd y cyfnod a ragnodir o dan is-adran (1).

**78 Pŵer i rannu dogfennau a gwybodaeth arall â Gweinidogion Cymru**

Caiff Tribiwnlys Addysg Cymru rannu â Gweinidogion Cymru unrhyw ddogfen neu wybodaeth arall sydd yn ei feddiant sy'n ymwneud â pha un a fu neu a fydd cydymffurfedd â gorchymyn neu argymhelliad a wnaed gan y Tribiwnlys o dan y Rhan hon ai peidio neu sy'n ymwneud â pha un a gafodd neu a gaiff gorchymyn neu argymhelliad o'r fath ei ddilyn ai peidio.

**79 Trosedd**

- (1) Mae person yn cyflawni trosedd os yw'r person hwnnw heb esgus rhesymol yn methu â chydymffurfio ag unrhyw ofyniad –
  - (a) mewn cysylltiad â datgelu neu arolygu dogfennau, neu
  - (b) i fod yn bresennol i roi tystiolaeth a dangos dogfennau,pan fo'r gofyniad hwnnw wedi ei osod drwy reoliadau o dan adran 74 neu 75 mewn perthynas ag apêl neu gais o dan adran 70 neu 72.
- (2) Mae person sy'n euog o drosedd o dan is-adran (1) yn agored ar gollfarn ddiannod i ddirwy nad yw'n uwch na lefel 3 ar y raddfa safonol.

**80 Lwfansau am fod yn bresennol yn Nhribiwnlys Addysg Cymru**

Caiff Gweinidogion Cymru dalu lwfansau at ddiben presenoldeb personau yn Nhribiwnlys Addysg Cymru neu mewn cysylltiad â hynny.

**81 Apelau o Dribiwnlys Addysg Cymru i'r Uwch Dribiwnlys**

- (1) Caiff parti i unrhyw drafodion o dan adran 70 neu 72 gerbron Tribiwnlys Addysg Cymru apelio i'r Uwch Dribiwnlys ar unrhyw bwynt cyfreithiol sy'n deillio o benderfyniad a wneir gan Dribiwnlys Addysg Cymru yn y trafodion hynny.
- (2) Dim ond os yw Tribiwnlys Addysg Cymru neu'r Uwch Dribiwnlys, ar gais a wneir gan y parti o dan sylw, wedi rhoi ei ganiatâd y caniateir i apêl gael ei dwyn o dan is-adran (1).
- (3) Mae adran 12 o Ddeddf Tribiwnlysoedd, Llysoedd a Gorfodaeth 2007 (p. 15) (trafodion ar apêl i'r Uwch Dribiwnlys) yn gymwys mewn perthynas ag apelau i'r Uwch Dribiwnlys o dan yr adran hon fel y mae'n gymwys mewn perthynas ag apelau iddo o dan adran 11 o'r Ddeddf honno, ond fel pe bai cyfeiriadau at y Tribiwnlys Haen Gyntaf yn gyfeiriadau at Dribiwnlys Addysg Cymru.

**77 Compliance with orders**

- (1) If the Education Tribunal for Wales makes an order under this Part, the governing body or local authority concerned must comply with the order before the end of any prescribed period beginning with the date on which it is made.
- (2) The governing body or local authority concerned must make a report to the Tribunal stating whether and how it has complied with the order before the end of a period of 14 days beginning with the first day after end of the period prescribed under subsection (1).

**78 Power to share documents and other information with the Welsh Ministers**

The Education Tribunal for Wales may share with the Welsh Ministers any document or other information in its possession that relates to whether or not an order or recommendation made by the Tribunal under this Part has been or will be complied with or followed.

**79 Offence**

- (1) A person commits an offence if without reasonable excuse that person fails to comply with any requirement –
  - (a) in respect of the disclosure or inspection of documents, or
  - (b) to attend to give evidence and produce documents,where that requirement is imposed by regulations under section 74 or 75 in relation to an appeal or application under section 70 or 72.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**80 Allowances for attendance at the Education Tribunal for Wales**

The Welsh Ministers may pay allowances for the purpose of or in connection with the attendance of persons at the Education Tribunal for Wales.

**81 Appeals from the Education Tribunal for Wales to the Upper Tribunal**

- (1) A party to any proceedings under section 70 or 72 before the Education Tribunal for Wales may appeal to the Upper Tribunal on any point of law arising from a decision made by the Education Tribunal for Wales in those proceedings.
- (2) An appeal may be brought under subsection (1) only if, on an application made by the party concerned, the Education Tribunal for Wales or the Upper Tribunal has given its permission.
- (3) Section 12 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (proceedings on appeal to the Upper Tribunal) applies in relation to appeals to the Upper Tribunal under this section as it applies in relation to appeals to it under section 11 of that Act, but as if references to the First-tier Tribunal were references to the Education Tribunal for Wales.

**PENNOD 5****CYFFREDINOL***Gwybodaeth***82 Rheoliadau ynghylch datgelu a defnyddio gwybodaeth**

- (1) Caiff rheoliadau wneud darpariaeth ynghylch datgelu neu ddefnyddio gwybodaeth at ddibenion y Rhan hon neu at ddibenion eraill sy'n gysylltiedig ag addysg plentyn neu berson ifanc.
- (2) Caiff rheoliadau o dan is-adran (1), er enghraifft—
  - (a) pennu personau pellach y mae rhaid rhoi hysbysiad o benderfyniadau iddynt (gan gynnwys, mewn achosion penodedig, roi hysbysiad o benderfyniadau heb gydsyniad y person y mae'r penderfyniad yn ymwneud ag ef neu, yn achos plentyn, heb gydsyniad rhiant y person hwnnw);
  - (b) pennu personau pellach y mae rhaid darparu copïau ysgrifenedig o gynllun iddynt (gan gynnwys, mewn achosion penodedig, ddarparu copïau heb gydsyniad y person y mae'r cynllun yn ymwneud ag ef neu, yn achos plentyn, heb gydsyniad rhiant y person hwnnw);
  - (c) gwneud darpariaeth ynghylch datgelu cynlluniau;
  - (d) gwneud darpariaeth ynghylch defnyddio'r wybodaeth a gesglir wrth lunio a chynnal cynlluniau.

*Galluedd***83 Rhieni a phobl ifanc nad oes ganddynt alluedd**

- (1) Rhaid i Weinidogion Cymru wneud rheoliadau at ddiben rhoi effaith i'r Rhan hon mewn achos pan na fo gan riant plentyn, neu pan na fo gan berson ifanc, alluedd ar yr adeg berthnasol.
- (2) Caiff rheoliadau o dan is-adran (1) gynnwys darpariaeth sy'n cymhwyso unrhyw ddeddfiad gydag addasiadau, gan gynnwys (er enghraifft) ddarpariaeth—
  - (a) i gyfeiriadau at riant plentyn gael eu dehongli fel cyfeiriadau at, neu fel pe baent yn cynnwys cyfeiriadau at, gynrychiolydd y rhiant;
  - (b) i gyfeiriadau at berson ifanc gael eu dehongli fel cyfeiriadau at, neu fel pe baent yn cynnwys cyfeiriadau at, gynrychiolydd y person ifanc, rhiant y person ifanc, neu gynrychiolydd rhiant y person ifanc;
  - (c) i addasiadau gael effaith er gwaethaf adran 27(1)(g) o Ddeddf Galluedd Meddyliol 2005 (p. 9) (nad yw'n caniatáu i benderfyniadau ar gyflawni cyfrifoldebau rhiant mewn materion nad ydynt yn ymwneud ag eiddo plentyn gael eu gwneud ar ran person).
- (3) Yn is-adran (1), ystyr "yr adeg berthnasol" yw'r adeg, o dan y deddfiad o dan sylw, pan fo'n ofynnol, neu pan ganiateir, i rywbeth gael ei wneud gan y rhiant neu'r person ifanc neu mewn perthynas â'r rhiant neu'r person ifanc.



## CHAPTER 5

### GENERAL

#### *Information*

#### **82 Regulations about disclosure and use of information**

- (1) Regulations may make provision about disclosure or use of information for the purposes of this Part or for other purposes connected with the education of a child or young person.
- (2) Regulations under subsection (1) may, for example—
  - (a) specify further persons to whom notice of decisions must be given (including, in specified cases, giving notice of decisions without the consent of the person to whom the decision relates or, in the case of a child, without the consent of that person's parent);
  - (b) specify further persons to whom written copies of a plan must be provided (including, in specified cases, the provision of copies without the consent of the person to whom the plan relates or, in the case of a child, without the consent of that person's parent);
  - (c) make provision about disclosure of plans;
  - (d) make provision about the use of information gathered in preparing and maintaining plans.

#### *Capacity*

#### **83 Parents and young people lacking capacity**

- (1) The Welsh Ministers must make regulations for the purpose of giving effect to this Part in a case where a parent of a child, or a young person, lacks capacity at the relevant time.
- (2) Regulations under subsection (1) may include provision applying any enactment with modifications, including (for example) provision for—
  - (a) references to a child's parent to be interpreted as references to, or as including references to, a representative of the parent;
  - (b) references to a young person to be interpreted as references to, or as including references to, a representative of the young person, the young person's parent, or a representative of the young person's parent;
  - (c) modifications to have effect despite section 27(1)(g) of the Mental Capacity Act 2005 (c. 9) (which does not permit decisions on discharging parental responsibilities in matters not relating to a child's property to be made on a person's behalf).
- (3) In subsection (1) "the relevant time" means the time at which, under the enactment in question, something is required or permitted to be done by or in relation to the parent or young person.

- (4) Mae'r cyfeiriad yn is-adran (1) at fod heb alluedd yn gyfeiriad at fod heb alluedd o fewn yr ystyr a roddir i "lacking capacity" yn Neddf Galluedd Meddyliol 2005.
- (5) Ystyr "cynrychiolydd", mewn perthynas â rhiant neu berson ifanc, yw –
  - (a) dirprwy a benodir gan y Llys Gwarchod o dan adran 16(2)(b) o Ddeddf Galluedd Meddyliol 2005 i wneud penderfyniadau ar ran y rhiant neu'r person ifanc mewn perthynas â materion o fewn y Rhan hon;
  - (b) rhoddai atwrneiaeth arhosol (o fewn yr ystyr a roddir i "lasting power of attorney" yn adran 9 o'r Ddeddf honno) a benodir gan y rhiant neu'r person ifanc i wneud penderfyniadau ar ei ran mewn perthynas â materion o fewn y Rhan hon;
  - (c) atwrnai y mae atwrneiaeth barhaus (o fewn yr ystyr a roddir i "enduring power of attorney" yn Atodlen 4 i'r Ddeddf honno) sydd wedi ei chreu gan y rhiant neu'r person ifanc wedi ei breinio ynddo, pan fo'r atwrneiaeth wedi ei chofrestru yn unol â pharagraffau 4 a 13 o'r Atodlen honno neu pan fo cais i gofrestru'r atwrneiaeth wedi ei wneud.

#### 84 **Galluedd plant**

- (1) Mae is-adrannau (2) i (7) yn gymwys –
  - (a) i'r ddyletswydd i hysbysu plentyn neu i roi gwybod i blentyn o dan adran 11(4), 13(3), 18(3), 22(2), 23(10), 24(9), 27(4), 28(4), 28(7), 31(7), 31(8), 31(9), 32(3), 40(4) neu 42(6);
  - (b) i'r ddyletswydd i roi copi o gynllun neu gynllun diwygiedig i blentyn o dan adran 22(1), 23(11), 24(10) neu 40(5);
  - (c) i'r amodau ym mharagraffau (a) a (b) o adran 20(3) fel y bônt yn gymwys i blentyn;
  - (d) i'r ddyletswydd i adolygu cynllun yn dilyn cais gan blentyn o dan adran 23(8) neu 24(7);
  - (e) i'r ddyletswydd i ailystyried yn dilyn cais gan blentyn o dan adran 26(1), 27(1) neu 32(1)(b);
  - (f) i'r ddyletswydd i benderfynu yn dilyn cais gan blentyn o dan adran 28(1).
- (2) Nid yw'r amod neu'r ddyletswydd yn gymwys os yw'r corff llywodraethu, yr awdurdod lleol neu'r corff GIG (yn ôl y digwydd) yn ystyried nad oes gan y plentyn y galluedd i ddeall y mater o dan sylw, oni bai bod is-adran (3) yn gymwys.
- (3) Mae'r is-adran hon yn gymwys os –
  - (a) yn achos penderfyniad gan gorff llywodraethu ysgol a gynhelir, yw'r awdurdod lleol sy'n gyfrifol am y plentyn yn rhoi gwybod i'r corff llywodraethu ei fod yn ystyried bod gan y plentyn y galluedd i ddeall y mater o dan sylw,
  - (b) oes cyfaill achos wedi ei benodi ar gyfer y plentyn o dan adran 85 drwy orchymyn gan Dribiwnlys Addysg Cymru, yn ddarostyngedig i ddarpariaeth yn neu o dan yr adran honno, neu
  - (c) oes datganiad wedi ei wneud gan Dribiwnlys Addysg Cymru o dan adran 71(2) fod gan y plentyn y galluedd i ddeall y mater o dan sylw.

- (4) The reference in subsection (1) to lacking capacity is to lacking capacity within the meaning of the Mental Capacity Act 2005.
- (5) “Representative”, in relation to a parent or young person, means –
  - (a) a deputy appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005 to make decisions on the parent’s or young person’s behalf in relation to matters within this Part;
  - (b) the donee of a lasting power of attorney (within the meaning of section 9 of that Act) appointed by the parent or young person to make decisions on his or her behalf in relation to matters within this Part;
  - (c) an attorney in whom an enduring power of attorney (within the meaning of Schedule 4 to that Act) created by the parent or young person is vested, where the power of attorney is registered in accordance with paragraphs 4 and 13 of that Schedule or an application for registration of the power of attorney has been made.

**84 Capacity of children**

- (1) Subsections (2) to (7) apply to –
  - (a) the duty to notify or inform a child under section 11(4), 13(3), 18(3), 22(2), 23(10), 24(9), 27(4), 28(4), 28(7), 31(7), 31(8), 31(9), 32(3), 40(4) or 42(6);
  - (b) the duty to give a copy of a plan or a revised plan to a child under section 22(1), 23(11), 24(10) or 40(5);
  - (c) the conditions in paragraphs (a) and (b) of section 20(3) as they apply to a child;
  - (d) the duty to review a plan following a request by a child under section 23(8) or 24 (7) ;
  - (e) the duty to reconsider following a request by a child under section 26(1), 27(1) or 32(1)(b);
  - (f) the duty to decide following a request by a child under section 28(1).
- (2) The condition or duty does not apply if the governing body, local authority or NHS body (as the case may be) considers that the child does not have the capacity to understand the subject matter, unless subsection (3) applies.
- (3) This subsection applies if –
  - (a) in the case of a decision by a governing body of a maintained school, the local authority responsible for the child informs the governing body that it considers that the child does have the capacity to understand the subject matter,
  - (b) a case friend has been appointed for the child under section 85 by order of the Education Tribunal for Wales, subject to provision in or under that section, or
  - (c) a declaration is made by the Education Tribunal for Wales under section 71(2) that the child does have the capacity to understand the subject matter.

- (4) Nid yw'r amod neu'r ddyletswydd yn gymwys i gorff llywodraethu ysgol a gynhelir os yw'r awdurdod lleol sy'n gyfrifol am y plentyn yn rhoi gwybod i'r corff llywodraethu fod yr awdurdod yn ystyried nad oes gan y plentyn y galluedd i ddeall y mater o dan sylw.
- (5) Mae is-adran (6) yn gymwys pan –
  - (a) bo corff llywodraethu ysgol a gynhelir yn ystyried bod naill ai gan blentyn y galluedd neu nad oes ganddo'r galluedd i ddeall mater sy'n ymwneud ag arfer swyddogaeth y mae'r adran hon yn gymwys iddi, a
  - (b) bo'r plentyn neu riant y plentyn yn gofyn i'r awdurdod lleol sy'n gyfrifol am y plentyn ailystyried hynny.
- (6) Rhaid i'r awdurdod lleol benderfynu a oes gan y plentyn y galluedd i ddeall y mater o dan sylw.
- (7) Nid yw'r amod neu'r ddyletswydd yn gymwys os yw Tribiwnlys Addysg Cymru yn datgan o dan adran 71(2) nad oes gan y plentyn y galluedd i ddeall.
- (8) Yn yr adran hon ystyr "y galluedd i ddeall y mater" yw'r galluedd i ddeall –
  - (a) gwybodaeth y mae rhaid ei rhoi neu ddogfennau y mae rhaid eu rhoi i blentyn o dan y Rhan hon, neu
  - (b) yr hyn y mae arfer yr hawliau a roddir i blentyn gan y Rhan hon yn ei olygu.

## 85 **Cyfeillion achos ar gyfer plant nad oes ganddynt alluedd**

- (1) Mae'r adran hon yn gymwys i blentyn nad oes ganddo'r galluedd i ddeall –
  - (a) gwybodaeth y mae rhaid ei rhoi neu ddogfennau y mae rhaid eu rhoi i blentyn o dan y Rhan hon, neu
  - (b) yr hyn y mae arfer yr hawliau a roddir i blentyn gan y Rhan hon yn ei olygu.
- (2) Caiff Tribiwnlys Addysg Cymru drwy orchymyn –
  - (a) penodi person i fod yn gyfaill achos ar gyfer plentyn y mae'r adran hon yn gymwys iddo, neu
  - (b) diswyddo'r person rhag bod yn gyfaill achos ar gyfer y plentyn,
 ar gais unrhyw berson neu ar ei ysgogiad ei hun, yn ddarostyngedig i ddarpariaeth mewn rheoliadau o dan is-adran (8).
- (3) Caiff cyfaill achos a benodir ar gyfer plentyn o dan yr adran hon –
  - (a) cynrychioli a chefnogi'r plentyn, a
  - (b) gwneud penderfyniadau a gweithredu ar ran y plentyn,
 mewn cysylltiad â materion sy'n codi o dan neu yn rhinwedd y Rhan hon, yn ddarostyngedig i ddarpariaeth mewn rheoliadau o dan is-adran (8).
- (4) Pan fo person wedi ei benodi i fod yn gyfaill achos drwy orchymyn gan y Tribiwnlys o dan yr adran hon, mae hawliau plentyn o dan y darpariaethau yn is-adran (5) i gael eu harfer gan y cyfaill achos ar ran y plentyn ac mae'r darpariaethau i gael eu dehongli yn unol â hynny.

- (4) The condition or duty does not apply to a governing body of a maintained school if the local authority responsible for the child informs the governing body that the authority considers that the child does not have the capacity to understand the subject matter.
- (5) Subsection (6) applies where –
  - (a) a governing body of a maintained school considers that a child either does or does not have the capacity to understand the subject matter relating to the exercise of a function to which this section applies, and
  - (b) the child or the child’s parent requests the local authority responsible for the child to reconsider the matter.
- (6) The local authority must decide whether the child has the capacity to understand the subject matter.
- (7) The condition or duty does not apply if the Education Tribunal for Wales declares under section 71(2) that the child does not have the capacity to understand.
- (8) In this section “the capacity to understand the subject matter” means the capacity to understand –
  - (a) information or documents that must be given to a child under this Part, or
  - (b) what it means to exercise the rights conferred on a child by this Part.

**85 Case friends for children who lack capacity**

- (1) This section applies to a child who lacks the capacity to understand –
  - (a) information or documents that must be given to a child under this Part, or
  - (b) what it means to exercise the rights conferred on a child by this Part.
- (2) The Education Tribunal for Wales may by order –
  - (a) appoint a person to be a case friend for a child to whom this section applies, or
  - (b) remove the person from being a case friend for the child,on the application of any person or on its own initiative, subject to provision in regulations under subsection (8).
- (3) A case friend appointed for a child under this section may –
  - (a) represent and support the child, and
  - (b) take decisions and act on behalf of the child,in respect of matters arising under or by virtue of this Part, subject to provision in regulations under subsection (8).
- (4) Where a person is appointed to be a case friend by order of the Tribunal under this section, the rights of a child under the provisions in subsection (5) are to be exercised by the case friend on behalf of the child and the provisions are to be interpreted accordingly.

- (5) Y darpariaethau yw –
- (a) adrannau 11(4), 13(3), 18(3), 22(2), 23(10), 24(9), 27(4), 28(4), 28(7), 31(7), 31(8), 31(9), 32(3), 40(4) a 42(6) (dyletswyddau i hysbysu neu i roi gwybod);
  - (b) adrannau 22(1), 23(11), 24(10) a 40(5) (dyletswyddau i roi copi o gynllun neu gynllun diwygiedig);
  - (c) adran 20(3) (dyletswydd i roi gwybod a rhoi cyfle i drafod);
  - (d) adrannau 23(8) a 24(7) (dyletswydd i adolygu cynllun yn dilyn cais);
  - (e) adran 26(1), 27(1) a 32(1)(b) (dyletswyddau i ailystyried yn dilyn cais);
  - (f) adran 28(1) (dyletswydd i benderfynu yn dilyn cais);
  - (g) adran 70(2) (yr hawl i apelio);
  - (h) adran 72 (yr hawl i apelio: personau sy'n cael eu cadw'n gaeth).
- (6) O ran cyfaill achos sydd wedi ei benodi o dan yr adran hon –
- (a) rhaid iddo weithredu'n deg ac yn gymwys,
  - (b) ni chaiff fod ag unrhyw fuddiant sy'n groes i fuddiant y plentyn,
  - (c) rhaid iddo sicrhau bod yr holl gamau a gymerir a'r holl benderfyniadau a wneir gan y cyfaill achos er budd y plentyn, a
  - (d) rhaid iddo ystyried safbwyntiau'r plentyn, i'r graddau y bo'n bosibl.
- (7) Wrth benderfynu pa un ai i benodi person i fod yn gyfaill achos ai peidio neu benderfynu pa un ai i ddiswyddo cyfaill achos ai peidio, rhaid i'r Tribiwnlys roi sylw, yn benodol, i a yw'r person yn debygol o gydymffurfio (yn achos penodi) neu a yw wedi cydymffurfio (yn achos diswyddo) â'r ddyletswydd yn is-adran (6).
- (8) Caiff rheoliadau wneud darpariaeth bellach ynghylch cyfeillion achos, gan gynnwys (ymhlith pethau eraill) ddarpariaeth –
- (a) sy'n rhoi swyddogaethau i Dribiwnlys Addysg Cymru;
  - (b) sy'n rhoi swyddogaethau i gyfeillion achos;
  - (c) ynghylch gweithdrefnau mewn perthynas â chyfeillion achos;
  - (d) sy'n pennu'r amgylchiadau pan gaiff person neu pan na chaiff person weithredu fel cyfaill achos;
  - (e) sy'n pennu'r amgylchiadau pan fydd rhaid i blentyn gael cyfaill achos;
  - (f) sy'n pennu gofynion mewn cysylltiad ag ymddygiad cyfeillion achos;
  - (g) sy'n cymhwyso unrhyw ddeddfiad gydag addasiadau neu hebddynt at ddiben galluogi cyfaill achos i wneud penderfyniadau neu i weithredu ar ran plentyn mewn cysylltiad â materion sy'n codi o dan neu yn rhinwedd y Rhan hon.

*Cyrsiau addysg uwch a ddarperir gan sefydliadau addysg bellach*

## 86 Myfyrwyr mewn sefydliadau addysg bellach sy'n dilyn cyrsiau addysg uwch

- (1) At ddibenion y Rhan hon, nid yw myfyriwr addysg uwch mewn sefydliad yn y sector addysg bellach i gael ei drin fel pe bai wedi ymrestru'n fyfyrwr yn y sefydliad.

- (5) The provisions are—
- (a) sections 11(4), 13(3), 18(3), 22(2), 23(10), 24(9), 27(4), 28(4), 28(7), 31(7), 31(8), 31(9), 32(3), 40(4) and 42(6) (duties to notify or inform);
  - (b) sections 22(1), 23(11), 24(10) and 40(5) (duties to give a copy of a plan or a revised plan);
  - (c) section 20(3) (duty to inform and give an opportunity to discuss);
  - (d) sections 23(8) and 24 (7) (duty to review a plan following a request);
  - (e) sections 26(1), 27(1) and 32(1)(b) (duties to reconsider following a request);
  - (f) section 28(1) (duty to decide following a request);
  - (g) section 70(2) (right of appeal);
  - (h) section 72 (right of appeal: detained persons).
- (6) A case friend appointed under this section must—
- (a) act fairly and competently,
  - (b) not have any interest adverse to that of the child,
  - (c) ensure that all steps and decisions taken by the case friend are for the benefit of the child, and
  - (d) take account of the child's views, so far as possible.
- (7) In deciding whether to appoint a person to be a case friend, or to remove a person from being a case friend, the Tribunal must have regard, in particular, to whether the person is likely to comply (in the case of appointment) or has complied (in the case of removal) with the duty in subsection (6).
- (8) Regulations may make further provision about case friends, including (among other things) provision—
- (a) conferring functions on the Education Tribunal for Wales;
  - (b) conferring functions on case friends;
  - (c) for procedures in relation to case friends;
  - (d) specifying the circumstances in which a person may or may not act as a case friend;
  - (e) specifying the circumstances in which a child must have a case friend;
  - (f) specifying requirements in respect of the conduct of case friends;
  - (g) applying any enactment with or without modifications for the purpose of enabling a case friend to make decisions or act on behalf of a child in respect of matters arising under or by virtue of this Part.

*Higher education courses provided by further education institutions*

**86 Students at further education institutions undertaking higher education courses**

- (1) For the purposes of this Part, a higher education student at an institution in the further education sector is not to be treated as enrolled as a student at the institution.

- (2) Nid yw'r ddyletswydd a osodir ar awdurdod lleol gan adran 68(2) (trefniadau ar gyfer osgoi a datrys anghytundebau) yn gymwys i'r graddau y byddai'n gymwys fel arall mewn perthynas â pherson ifanc i'r graddau y mae'r person hwnnw yn fyfyrwr addysg uwch mewn sefydliad yn y sector addysg bellach.
- (3) Mae person yn fyfyrwr addysg uwch mewn sefydliad yn y sector addysg bellach os yw'r person yn dilyn cwrs addysg uwch a ddarperir gan y sefydliad ac nad yw'r person hefyd yn cael addysg neu hyfforddiant a ddarperir ganddo.
- (4) Pan fo person sydd wedi ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yn cael addysg neu hyfforddiant a ddarperir gan y sefydliad hwnnw, a hefyd yn dilyn cwrs addysg uwch a ddarperir ganddo, mae'r person yn fyfyrwr addysg uwch yn y sefydliad mewn perthynas â'r cwrs addysg uwch (ond mae fel arall i gael ei drin fel pe bai wedi ymrestru'n fyfyrwr yn y sefydliad).
- (5) Yn yr adran hon, ystyr "cwrs addysg uwch" yw cwrs o unrhyw ddisgrifiad a grybwyllir yn Atodlen 6 i Ddeddf Diwygio Addysg 1988 (p.40).

*Disgyblion a myfyrwyr mewn sefydliadau yng Nghymru sy'n preswyllo yn Lloegr*

## **87 Cymhwyso darpariaethau ailystyried i ddisgyblion a myfyrwyr sy'n preswyllo yn Lloegr**

- (1) Mae is-adrannau (2) a (3) o'r adran hon yn gymwys i blentyn neu berson ifanc sydd –
  - (a) yn ardal awdurdod lleol yn Lloegr, a
  - (b) yn ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru.
- (2) Mae adrannau 26, 27, 29 (fel y mae'n gymwys i adrannau 26 a 27 yn unig) a 32 yn gymwys i'r plentyn neu'r person ifanc gyda'r addasiadau a ganlyn –
  - (a) yn adran 26(1)(b), 27(1)(b) a 32(1)(b), yn lle "i'r awdurdod lleol sy'n gyfrifol am y plentyn neu'r person ifanc" rhodder "i'r awdurdod lleol sy'n cynnal yr ysgol";
  - (b) yn adran 27(1)(a), yn lle "neu 12(3)" rhodder ", 12(3) neu 12(5)";
  - (c) yn adran 29(2), hepgorer paragraff (b);
  - (d) ym mhob un o'r adrannau mae'r cyfeiriadau eraill at "awdurdod lleol" i gael eu dehongli fel cyfeiriadau at yr awdurdod lleol sy'n cynnal yr ysgol;
  - (e) ni chaniateir i'r ddyletswydd yn adran 27(6) gael ei chyflawni ond yn unol â pharagraff (a) o'r ddarpariaeth honno.
- (3) Mae adran 14 yn gymwys i'r plentyn neu'r person ifanc yn rhinwedd is-adran (2) ac adran 26(4) gyda'r addasiadau a ganlyn –
  - (a) yn adran 14(1), hepgorer "os yw awdurdod lleol yn gyfrifol am blentyn neu berson ifanc ac";
  - (b) mae'r cyfeiriadau at "awdurdod lleol" i gael eu dehongli fel cyfeiriadau at yr awdurdod lleol sy'n cynnal yr ysgol;
  - (c) ni chaniateir i'r ddyletswydd yn adran 14(2) gael ei chyflawni ond yn unol â pharagraff (b) o'r ddarpariaeth honno;
  - (d) nid yw'r ddyletswydd yn adran 14(2) yn gymwys –



- (2) The duty imposed on a local authority by section 68(2) (arrangements for the avoidance and resolution of disagreements) does not apply in so far as it would otherwise apply in relation to a young person in so far as that person is a higher education student at an institution in the further education sector.
- (3) A person is a higher education student at an institution in the further education sector if the person is undertaking a higher education course provided by the institution and is not also receiving education or training provided by it.
- (4) Where a person enrolled as a student at an institution in the further education sector is receiving education or training provided by it, and is also undertaking a higher education course provided by it, the person is a higher education student at the institution in relation to the higher education course (but is otherwise to be treated as enrolled as a student at the institution).
- (5) In this section, “higher education course” means a course of any description mentioned in Schedule 6 to the Education Reform Act 1988 (c. 40).

*Pupils and students at Welsh institutions who are resident in England*

**87 Application of reconsideration provisions to pupils and students resident in England**

- (1) Subsections (2) and (3) of this section apply to a child or young person who is –
  - (a) in the area of a local authority in England, and
  - (b) a registered pupil at a maintained school in Wales.
- (2) Sections 26, 27, 29 (in its application to sections 26 and 27 only) and 32 apply to the child or young person with the following modifications –
  - (a) in section 26(1)(b), 27(1)(b) and 32(1)(b) for “the local authority responsible for the child or young person” substitute “the local authority that maintains the school”;
  - (b) in section 27(1)(a), for “or 12 (3) ” substitute “, 12 (3) or 12(5)”;
  - (c) in section 29(2), omit paragraph (b);
  - (d) in each of the sections the other references to “local authority” are to be interpreted as references to the local authority that maintains the school;
  - (e) the duty in section 27(6) may only be discharged in accordance with paragraph (a) of that provision.
- (3) Section 14 applies to the child or young person by virtue of subsection (2) and section 26(4) with the following modifications –
  - (a) in section 14(1), omit “a local authority is responsible for a child or young person, and”;
  - (b) the references to “local authority” are to be interpreted as references to the local authority that maintains the school;
  - (c) the duty in section 14(2) may only be discharged in accordance with paragraph (b) of that provision;
  - (d) the duty in section 14(2) does not apply if –

- (i) os yw'r awdurdod lleol yn gofyn i awdurdod lleol yn Lloegr sicrhau asesiad o dan adran 36 o Ddeddf Plant a Theuluoedd 2014 (p. 6) ac os yw'r awdurdod yn Lloegr, yn rhinwedd y cais hwnnw neu fel arall, yn gyfrifol am y plentyn neu'r person ifanc (o fewn yr ystyr a roddir gan adran 24(1) o'r Ddeddf honno), neu
  - (ii) os yw awdurdod lleol yn Lloegr yn cynnal cynllun AIG ar gyfer y plentyn neu'r person ifanc;
  - (e) os yw'r awdurdod lleol, yn dilyn cais o dan baragraff (d)(i), yn cael ei hysbysu gan yr awdurdod lleol yn Lloegr nad yw'n ofynnol iddo sicrhau cynllun AIG ar gyfer y plentyn, mae'r ddyletswydd yn adran 14(2) yn gymwys eto mewn cysylltiad â'r plentyn neu'r person ifanc;
  - (f) nid yw is-adrannau (6) i (10) o adran 14 yn gymwys.
- (4) Mae awdurdod lleol yn gyfrifol am blentyn neu berson ifanc sydd yn ardal awdurdod lleol yn Lloegr at ddibenion adran 68 a 69—
- (a) os yw'n ddisgybl cofrestredig mewn ysgol a gynhelir gan yr awdurdod, neu
  - (b) os yw wedi ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yn ardal yr awdurdod.

*Rhoi hysbysiad etc.*

## 88 Rhoi hysbysiad etc. o dan y Rhan hon

- (1) Mae'r adran hon yn gymwys pan fo darpariaeth yn y Rhan hon yn ei gwneud yn ofynnol (ar ba delerau bynnag) i gorff llywodraethu neu awdurdod lleol, neu'n awdurdodi (ar ba delerau bynnag) corff llywodraethu neu awdurdod lleol i—
- (a) hysbysu person am rywbeth, neu
  - (b) rhoi dogfen i berson (gan gynnwys hysbysiad neu gopi o ddogfen).
- (2) Caniateir i'r hysbysiad gael ei roi neu i'r ddogfen gael ei rhoi i'r person o dan sylw—
- (a) drwy ddanfôn yr hysbysiad neu'r ddogfen at y person,
  - (b) drwy anfon yr hysbysiad neu'r ddogfen drwy'r post i gyfeiriad cywir y person,
  - (c) drwy adael yr hysbysiad neu'r ddogfen yng nghyfeiriad cywir y person, neu
  - (d) os yw'r amodau yn is-adran (3) wedi eu bodloni, drwy anfon yr hysbysiad neu'r ddogfen yn electronig.
- (3) Ni chaiff corff llywodraethu nac awdurdod lleol anfon hysbysiad neu ddogfen at berson yn electronig ond os yw'r gofynion a ganlyn wedi eu bodloni—
- (a) rhaid i'r person y mae'r hysbysiad i gael ei roi iddo neu y mae'r ddogfen i gael ei rhoi iddo—
    - (i) bod wedi nodi wrth y corff llywodraethu neu'r awdurdod lleol baroddrwydd i gael yr hysbysiad neu'r ddogfen yn electronig, a
    - (ii) bod wedi darparu i'r corff llywodraethu neu i'r awdurdod lleol gyfeiriad sy'n addas at y diben hwnnw, a
  - (b) mae'r corff llywodraethu neu'r awdurdod lleol yn anfon yr hysbysiad neu'r ddogfen i'r cyfeiriad hwnnw.

- (i) the local authority requests a local authority in England to secure an assessment under section 36 of the Children and Families Act 2014 (c. 6) and, by virtue of that request or otherwise, the authority in England is responsible for the child or young person (within the meaning given by section 24(1) of that Act), or
  - (ii) a local authority in England maintains an EHC plan for the child or young person;
  - (e) if, following a request under paragraph (d)(i), the local authority is notified by the local authority in England that it is not required to secure an EHC plan for the child, the duty in section 14(2) applies again in respect of the child or young person;
  - (f) subsections (6) to (10) of section 14 do not apply.
- (4) A local authority is responsible for a child or young person who is in the area of a local authority in England for the purposes of sections 68 and 69 if he or she is –
- (a) a registered pupil at a school maintained by the authority, or
  - (b) enrolled as a student at an institution in the further education sector in the authority's area.

*Giving notice etc.*

## **88 Giving notice etc. under this Part**

- (1) This section applies where a provision of this Part requires or authorises (in whatever terms) a governing body or local authority to –
- (a) notify a person of something, or
  - (b) give a document to a person (including a notice or a copy of a document).
- (2) The notification or document may be given to the person in question –
- (a) by delivering it to the person,
  - (b) by sending it by post to the person's proper address,
  - (c) by leaving it at the person's proper address, or
  - (d) if the conditions in subsection (3) are met, by sending it electronically.
- (3) A governing body or local authority may send a notification or document to a person electronically only if the following requirements are met –
- (a) the person to whom the notification or document is to be given must have –
    - (i) indicated to the governing body or local authority a willingness to receive the notification or document electronically, and
    - (ii) provided the governing body or local authority with an address suitable for that purpose, and
  - (b) the governing body or local authority sends the notification or document to that address.

- (4) At ddibenion yr adran hon ac adran 7 o Ddeddf Dehongli 1978 (p. 30) (cyfeiriadau at gyflwyno drwy'r post) fel y mae'n gymwys i'r adran hon, cyfeiriad cywir person yw cyfeiriad hysbys diwethaf y person.
- (5) Mae hysbysiad neu ddogfen a roddir i berson drwy ei adael neu ei gadael yng nghyfeiriad cywir y person i gael ei drin neu ei thrin at ddibenion y Rhan hon fel pe bai wedi ei roi neu ei rhoi ar yr adeg y gadawyd yr hysbysiad neu'r ddogfen yn y cyfeiriad hwnnw.

*Adolygu darpariaeth ddysgu ychwanegol yn Gymraeg*

**89 Adolygu darpariaeth ddysgu ychwanegol yn Gymraeg**

- (1) Rhaid i Weinidogion Cymru drefnu –
  - (a) ar gyfer adolygiadau o ddigonolrwydd darpariaeth ddysgu ychwanegol yn Gymraeg;
  - (b) i adroddiadau ar ganlyniad yr adolygiadau gael eu llunio a'u cyhoeddi.
- (2) Nid yw is-adran (1) yn atal adolygiadau rhag delio â materion eraill hefyd.
- (3) Rhaid cyhoeddi'r adroddiad cyntaf ar ganlyniad adolygiad cyn 1 Medi yn y bumed flwyddyn yn dilyn y flwyddyn y dygir unrhyw un neu ragor o ddarpariaethau'r Rhan hon i rym drwy orchymyn (pa un ai at bob diben neu at ddibenion cyfyngedig).
- (4) Rhaid i Weinidogion Cymru gyhoeddi adroddiadau dilynol cyn 1 Medi ym mhob pumed flwyddyn yn dilyn y flwyddyn ddiwethaf yr oedd yn ofynnol cyhoeddi adroddiad.

**90 Pŵer i ddiwygio dyletswyddau i sicrhau darpariaeth ddysgu ychwanegol yn Gymraeg**

- (1) Mae'r adran hon yn gymwys i'r darpariaethau a ganlyn –
  - adran 12(7)(b);
  - adran 14(10)(c);
  - adran 19(7)(c);
  - adran 20(5)(c);
  - adran 21(5);
  - adran 42(8)(b).
- (2) Caiff rheoliadau hepgor y geiriau "gymryd pob cam rhesymol i" o ddarpariaeth.
- (3) Caiff rheoliadau ddarparu bod darpariaeth yn cael effaith fel pe bai'r geiriau "gymryd pob cam rhesymol i" wedi eu hepgor –
  - (a) at ddiben rhagnodedig,
  - (b) mewn perthynas â chorff rhagnodedig, neu
  - (c) at ddiben rhagnodedig mewn perthynas â chorff rhagnodedig.
- (4) Os yw'r geiriau "gymryd pob cam rhesymol i" wedi eu hepgor gan reoliadau o dan is-adran (2) o bob darpariaeth y mae'r adran hon yn gymwys iddi, caiff rheoliadau hepgor adran 89.

- (4) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (references to service by post) in its application to this section, the proper address of a person is the last known address of the person.
- (5) A notification or document given to a person by leaving it at the person's proper address is to be treated for the purposes of this Part as having been given at the time at which it was left at that address.

*Review of additional learning provision in Welsh*

**89 Review of additional learning provision in Welsh**

- (1) The Welsh Ministers must arrange –
  - (a) for reviews of the sufficiency of additional learning provision in Welsh;
  - (b) for reports on the outcome of the reviews to be produced and published.
- (2) Subsection (1) does not prevent reviews from also dealing with other matters.
- (3) The first report on the outcome of a review must be published before 1 September in the fifth year following the year in which any of the provisions of this Part are brought into force by order (whether for all or limited purposes).
- (4) The Welsh Ministers must publish subsequent reports before 1 September in every fifth year following the last year in which a report was required to be published.

**90 Power to amend duties to secure additional learning provision in Welsh**

- (1) This section applies to the following provisions –
  - section 12(7)(b);
  - section 14(10)(c);
  - section 19(7)(c);
  - section 20(5)(c);
  - section 21(5);
  - section 42(8)(b).
- (2) Regulations may omit the words “take all reasonable steps to” from a provision.
- (3) Regulations may provide that a provision has effect as if the words “take all reasonable steps to” were omitted –
  - (a) for a prescribed purpose,
  - (b) in relation to a prescribed body, or
  - (c) for a prescribed purpose in relation to a prescribed body.
- (4) If the words “take all reasonable steps to” are omitted by regulations under subsection (2) from each provision to which this section applies, regulations may omit section 89.

**RHAN 3****TRIBIWNLYS ADDYSG CYMRU****91 Cyfansoddiad Tribiwnlys Addysg Cymru**

- (1) Mae Tribiwnlys Anghenion Addysgol Arbennig Cymru i barhau a chaiff ei ailenwi'n Dribiwnlys Addysg Cymru.
- (2) Mae'r Tribiwnlys i gael—
  - (a) Llywydd i'r Tribiwnlys,
  - (b) panel o bersonau a gaiff wasanaethu fel cadeirydd cyfreithiol y Tribiwnlys ("y panel cadeirydd cyfreithiol"), ac
  - (c) panel o bersonau a gaiff wasanaethu fel y ddau aelod arall o'r Tribiwnlys ond nid fel y cadeirydd cyfreithiol ("y panel lleyg").
- (3) Mae'r Llywydd i gael ei benodi gan yr Arglwydd Ganghellor gyda chytundeb yr Arglwydd Brif Ustus.
- (4) Mae pob aelod o'r panel cadeirydd cyfreithiol i gael ei benodi gan yr Arglwydd Ganghellor gyda chytundeb y Llywydd.
- (5) Mae aelodau'r panel lleyg i gael eu penodi gan Weinidogion Cymru gyda chytundeb yr Ysgrifennydd Gwladol a'r Llywydd.
- (6) Caiff rheoliadau a wneir gan Weinidogion Cymru—
  - (a) darparu i awdurdodaeth y Tribiwnlys gael ei harfer gan y nifer hwnnw o dribiwnlysoedd y mae'r Llywydd yn penderfynu arno o bryd i'w gilydd, a
  - (b) gwneud unrhyw ddarpariaeth arall mewn cysylltiad â sefydlu'r Tribiwnlys a'i barhad yr ystyrir ei bod yn angenrheidiol neu'n ddymunol.
- (7) Caiff Gweinidogion Cymru ddarparu staff ac adeiladau ar gyfer y Tribiwnlys.

**92 Y Llywydd ac aelodau'r paneli**

- (1) Ni chaniateir i berson gael ei benodi'n Llywydd nac yn aelod o'r panel cadeirydd cyfreithiol oni bai ei fod yn bodloni'r amod cymhwystra penodiad barnwrol ar sail 5 mlynedd.
- (2) Ni chaniateir i berson gael ei benodi'n aelod o'r panel lleyg oni bai ei fod yn bodloni gofynion a ragnodir mewn rheoliadau a wneir gan Weinidogion Cymru.
- (3) Os yw'r Llywydd, ym marn yr Arglwydd Ganghellor a'r Arglwydd Brif Ustus, yn anaddas i barhau mewn swydd neu'n analluog i gyflawni ei ddyletswyddau, caiff yr Arglwydd Ganghellor (gyda chytundeb yr Arglwydd Brif Ustus) ei ddiswyddo.
- (4) Mae pob aelod o'r panel cadeirydd cyfreithiol neu'r panel lleyg i ddal a gadael swydd o dan delerau'r offeryn y mae wedi ei benodi odano.
- (5) Ond dim ond gyda chytundeb y Llywydd y caniateir i aelod o'r panel cadeirydd cyfreithiol neu'r panel lleyg gael ei ddiswyddo o dan delerau'r offeryn.

## PART 3

### EDUCATION TRIBUNAL FOR WALES

#### **91 Constitution of the Education Tribunal for Wales**

- (1) The Special Educational Needs Tribunal for Wales is to continue and is renamed the Education Tribunal for Wales.
- (2) The Tribunal is to consist of—
  - (a) a President of the Tribunal,
  - (b) a panel of persons who may serve as the legal chair of the Tribunal (“the legal chair panel”), and
  - (c) a panel of persons who may serve as the other two members of the Tribunal but not as the legal chair (“the lay panel”).
- (3) The President is to be appointed by the Lord Chancellor with the agreement of the Lord Chief Justice.
- (4) Each member of the legal chair panel is to be appointed by the Lord Chancellor with the agreement of the President.
- (5) The members of the lay panel are to be appointed by the Welsh Ministers with the agreement of the Secretary of State and the President.
- (6) Regulations made by the Welsh Ministers may—
  - (a) provide for the jurisdiction of the Tribunal to be exercised by such number of tribunals as the President may determine from time to time, and
  - (b) make any other provision in connection with the establishment and continuation of the Tribunal which are considered necessary or desirable.
- (7) The Welsh Ministers may provide staff and accommodation for the Tribunal.

#### **92 The President and members of the panels**

- (1) A person may not be appointed as President or member of the legal chair panel unless he or she satisfies the judicial-appointment eligibility condition on a 5-year basis.
- (2) A person may not be appointed as a member of the lay panel unless he or she satisfies requirements which may be prescribed in regulations made by the Welsh Ministers.
- (3) If in the opinion of the Lord Chancellor and of the Lord Chief Justice the President is unfit to continue in office or is incapable of performing his or her duties, the Lord Chancellor may (with the agreement of the Lord Chief Justice) remove him or her from office.
- (4) Each member of the legal chair panel or lay panel is to hold and vacate office under the terms of the instrument under which he or she is appointed.
- (5) But a member of the legal chair panel or the lay panel may only be removed from office under the terms of the instrument with the agreement of the President.

- (6) O ran y Llywydd neu aelod o'r panel cadeirydd cyfreithiol neu'r panel lleyg –
- (a) caiff ymddiswyddo drwy roi hysbysiad ysgrifenedig i'r Arglwydd Ganghellor neu (yn ôl y digwydd) i Weinidogion Cymru, a
  - (b) mae'n gymwys i gael ei ailbenodi os yw'n peidio â dal y swydd.

**93 Dirprwy Lywydd y Tribiwnlys**

- (1) Caiff y Llywydd benodi aelod o'r panel cadeirydd cyfreithiol yn Ddirprwy Lywydd y Tribiwnlys.
- (2) Mae person a benodir yn Ddirprwy Lywydd y Tribiwnlys yn dal ac yn gadael y swydd honno yn unol â'r telerau penodi.
- (3) Mae person yn peidio â bod yn Ddirprwy Lywydd os yw'n peidio â bod yn aelod o'r panel cadeirydd cyfreithiol.
- (4) Caiff person ymddiswyddo fel Dirprwy Lywydd drwy roi hysbysiad ysgrifenedig i'r Llywydd.
- (5) Caiff Dirprwy Lywydd arfer swyddogaethau'r Llywydd –
  - (a) os yw'r Llywydd wedi dirprwyo eu harfer i'r Dirprwy Lywydd,
  - (b) os yw swydd y Llywydd yn wag, neu
  - (c) os na all y Llywydd eu harfer am unrhyw reswm.

**94 Tâl a threuliau**

Caiff Gweinidogion Cymru –

- (a) talu tâl a lwfansau i'r Llywydd ac unrhyw berson arall mewn cysylltiad â'i wasanaeth fel aelod o'r Tribiwnlys, a
- (b) talu treuliau'r Tribiwnlys.

**RHAN 4**

**AMRYWIOL A CHYFFREDINOL**

*Amrywiol*

**95 Ystyr "yn ardal" awdurdod lleol**

Yn adran 579 o Ddeddf Addysg 1996 (p. 56) –

- (a) yn is-adran (3A), ar ôl "Wales" mewnosoder "or who would be wholly or mainly resident in the area of a local authority in Wales were it not for provision secured for the person under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018".
- (b) yn is-adran (3B), ar ôl "England" mewnosoder "or who would be wholly or mainly resident in the area of a local authority in England were it not for provision secured for the person under Part 3 of the Children and Families Act 2014".



- (6) The President or a member of the legal chair panel or lay panel –
  - (a) may resign office by notice in writing to the Lord Chancellor or (as the case may be) the Welsh Ministers, and
  - (b) is eligible for re-appointment if he or she ceases to hold office.

**93 Deputy President of the Tribunal**

- (1) The President may appoint a member of the legal chair panel as Deputy President of the Tribunal.
- (2) A person appointed as Deputy President of the Tribunal holds and vacates that position in accordance with the terms of appointment.
- (3) A person ceases to be Deputy President if he or she ceases to be a member of the legal chair panel.
- (4) A person may resign as Deputy President by notice in writing to the President.
- (5) A Deputy President may exercise functions of the President if –
  - (a) the President has delegated their exercise to the Deputy President,
  - (b) the office of President is vacant, or
  - (c) the President is unable for any reason to exercise them.

**94 Remuneration and expenses**

The Welsh Ministers may –

- (a) pay remuneration and allowances to the President and any other person in respect of his or her service as a member of the Tribunal, and
- (b) defray the expenses of the Tribunal.

**PART 4**

**MISCELLANEOUS AND GENERAL**

*Miscellaneous*

**95 Meaning of “in the area” of a local authority**

In section 579 of the Education Act 1996 (c. 56) –

- (a) in subsection (3A), after “Wales” insert “or who would be wholly or mainly resident in the area of a local authority in Wales were it not for provision secured for the person under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.
- (b) in subsection (3B), after “England” insert “or who would be wholly or mainly resident in the area of a local authority in England were it not for provision secured for the person under Part 3 of the Children and Families Act 2014”.

(c) ar ôl is-adran (3B) mewnosoder –

“(3C) The Welsh Ministers may make further provision by regulations about the meaning of references in this Act to a person who is “in the area” of a local authority in Wales.”

*Cyffredinol*

**96 Mân ddiwygiadau a diwygiadau canlyniadol a diddymiadau**

Mae Atodlen 1 yn darparu ar gyfer mân ddiwygiadau a diwygiadau canlyniadol a diddymiadau.

**97 Pŵer i wneud darpariaeth ganlyniadol a throsiannol etc.**

- (1) Os yw Gweinidogion Cymru yn ystyried ei bod yn angenrheidiol neu'n hwylus at ddibenion unrhyw ddarpariaeth yn y Ddeddf hon, o ganlyniad i unrhyw ddarpariaeth ynddi neu i roi effaith lawn i unrhyw ddarpariaeth ynddi, cânt drwy reoliadau wneud –
  - (a) unrhyw ddarpariaeth atodol, gysylltiedig neu ganlyniadol, a
  - (b) unrhyw ddarpariaeth ddarfodol, drosiannol neu arbed.
- (2) Caiff rheoliadau o dan yr adran hon ddiwygio, diddymu neu ddirymu unrhyw ddeddfiad neu ddogfen statudol.
- (3) Rhaid i ddogfen statudol a ddiwygir drwy reoliadau o dan yr adran hon gael ei chyhoeddi ar ei ffurf ddiwygiedig gan y person a chanddo'r swyddogaeth o wneud neu ddyroddi'r ddogfen.
- (4) Yn yr adran hon, ystyr “dogfen statudol” yw offeryn (ac eithrio offeryn statudol) –
  - (a) a wneir neu a ddyroddir o dan ddeddfiad, a
  - (b) sy'n ddarostyngedig i weithdrefn yng Nghynulliad Cenedlaethol Cymru sy'n ofynnol gan ddeddfiad cyn y caniateir iddo gael ei wneud neu ei ddyroddi.

**98 Rheoliadau**

- (1) Mae pŵer i wneud rheoliadau o dan y Ddeddf hon i gael ei arfer drwy offeryn statudol.
- (2) Mae pŵer i wneud rheoliadau o dan y Ddeddf hon yn cynnwys pŵer i wneud –
  - (a) darpariaeth wahanol at ddibenion gwahanol neu ar gyfer achosion gwahanol;
  - (b) darpariaeth gysylltiedig, atodol, ganlyniadol, ddarfodol, drosiannol neu arbed.
- (3) Ni chaniateir i offeryn statudol sy'n cynnwys unrhyw un neu ragor o'r canlynol gael ei wneud oni bai bod drafft o'r offeryn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru ac wedi ei gymeradwyo ganddo drwy benderfyniad –
  - (a) rheoliadau o dan adran 3(4), 39(2), 45, 46, 60(4), 74(1), 75, 82, 83, 85, 90 neu 99(8);
  - (b) y rheoliadau cyntaf a wneir o dan adran 15(2);
  - (c) rheoliadau a wneir o dan adran 97 sy'n diwygio neu'n diddymu unrhyw ddarpariaeth mewn Deddf Seneddol neu mewn Mesur neu Ddeddf gan Gynulliad Cenedlaethol Cymru.

(c) After subsection (3B) insert –

“(3C) The Welsh Ministers may make further provision by regulations about the meaning of references in this Act to a person who is “in the area” of a local authority in Wales.”

*General*

**96 Minor and consequential amendments and repeals**

Schedule 1 provides for minor and consequential amendments and repeals.

**97 Power to make consequential and transitional provision etc.**

- (1) If the Welsh Ministers consider it necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act, they may by regulations make –
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision.
- (2) Regulations under this section may amend, repeal or revoke any enactment or statutory document.
- (3) A statutory document amended by regulations under this section must be published in its amended form by the person having the function of making or issuing the document.
- (4) In this section, “statutory document” means an instrument (other than a statutory instrument) that is –
  - (a) made or issued under an enactment, and
  - (b) subject to a National Assembly for Wales procedure required by an enactment before it may be made or issued.

**98 Regulations**

- (1) A power to make regulations under this Act is to be exercised by statutory instrument.
- (2) A power to make regulations under this Act includes power to make –
  - (a) different provision for different purposes or cases;
  - (b) incidental, supplementary, consequential, transitory, transitional or saving provision.
- (3) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales –
  - (a) regulations under section 3(4), 39(2), 45, 46, 60(4), 74(1), 75, 82, 83, 85, 90 or 99(8);
  - (b) the first regulations made under section 15(2);
  - (c) regulations made under section 97 which amend or repeal any provision of an Act of Parliament or a Measure or Act of the National Assembly for Wales.

- (4) Mae unrhyw offeryn statudol arall sy'n cynnwys rheoliadau a wneir gan Weinidogion Cymru o dan y Ddeddf hon yn ddarostyngedig i gael ei ddiddymu yn unol â phenderfyniad gan Gynulliad Cenedlaethol Cymru.

## 99 Dehongli cyffredinol

- (1) Yn y Ddeddf hon –

mae “addysg” (*“education”*) yn cynnwys addysg lawnamser a rhan-amser, ond nid yw'n cynnwys addysg uwch; ac mae “addysgol” (*“educational”*) ac “addysgu” (*“educate”*) (a thermau cysylltiedig eraill) i gael eu dehongli yn unol â hynny;

mae i “anghenion dysgu ychwanegol” (*“additional learning needs”*) yr ystyr a roddir gan adran 2;

mae i “awdurdod cartref” (*“home authority”*) yr ystyr a roddir gan adran 39;

ystyr “Awdurdod Iechyd Arbennig” (*“Special Health Authority”*) yw Awdurdod Iechyd Arbennig a sefydlir o dan adran 22 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42) neu adran 28 o Ddeddf y Gwasanaeth Iechyd Gwladol 2006 (p. 41);

ystyr “awdurdod lleol” (*“local authority”*) yw cyngor sir neu fwrdeistref sirol yng Nghymru, ac eithrio pan fo cyfeiriad penodol yn cael ei wneud at awdurdod lleol yn Lloegr;

ystyr “Bwrdd Comisiynu'r Gwasanaeth Iechyd Gwladol” (*“National Health Service Commissioning Board”*) yw corff a sefydlir o dan adran 1H o Ddeddf y Gwasanaeth Iechyd Gwladol 2006;

ystyr “Bwrdd Iechyd Lleol” (*“Local Health Board”*) yw Bwrdd Iechyd Lleol a sefydlir o dan adran 11 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006;

ystyr “corff GIG” (*“NHS body”*) yw –

(a) Bwrdd Iechyd Lleol, neu

(b) ymddiriedolaeth GIG;

mae i “corff llywodraethu”, mewn perthynas â chorff llywodraethu sefydliad yn y sector addysg bellach, yr ystyr a roddir i “governing body” gan adran 90 o Ddeddf Addysg Bellach ac Uwch 1992 (p. 13);

ystyr “cyfaill achos” (*“case friend”*) yw person a benodir o dan adran 85;

mae i “cynllun addysg personol” (*“personal education plan”*) yr ystyr a roddir gan adran 15;

ystyr “cynllun AIG” (*“EHC plan”*) yw cynllun o fewn adran 37(2) o Ddeddf Plant a Theuluoedd 2014 (p. 6) (cynlluniau addysg, iechyd a gofal);

mae i “cynllun datblygu unigol” (*“individual development plan”*) yr ystyr a roddir gan adran 10;

mae i “darpariaeth ddysgu ychwanegol” (*“additional learning provision”*) yr ystyr a roddir gan adran 3;

mae i “dechrau'r cyfnod o gadw person yn gaeth” (*“beginning of detention”*) yr ystyr a roddir gan adran 39;

- (4) Any other statutory instrument containing regulations made by the Welsh Ministers under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

## **99 General interpretation**

- (1) In this Act—

“additional learning needs” (*“anghenion dysgu ychwanegol”*) has the meaning given by section 2;

“additional learning provision” (*“darpariaeth ddysgu ychwanegol”*) has the meaning given by section 3;

“beginning of detention” (*“dechrau'r cyfnod o gadw person yn gaeth”*) has the meaning given by section 39;

“case friend” (*“cyfaill achos”*) means a person appointed under section 85;

“child” (*“plentyyn”*) means a person not over compulsory school age;

“clinical commissioning group” (*“grŵp comisiynu clinigol”*) means a body established under section 14D of the National Health Service Act 2006 (c. 41);

“detained person” (*“person sy'n cael ei gadw'n gaeth”*) has the meaning given by section 39;

“education” (*“addysg”*) includes full-time and part-time education, but does not include higher education; and “educational” (*“addysgol”*) and “educate” (*“addysgu”*) (and other related terms) are to be interpreted accordingly;

“EHC plan” (*“cynllun AIG”*) means a plan within section 37(2) of the Children and Families Act 2014 (c. 6) (education, health and care plans);

“enactment” (*“deddfiad”*) means a provision contained in any of the following (whenever enacted or made)—

- (a) an Act of Parliament;
- (b) a Measure or an Act of the National Assembly for Wales (including a provision of this Act);
- (c) subordinate legislation made under an Act falling within paragraph (a) or a Measure or Act falling within paragraph (b);

“governing body” (*“corff llywodraethu”*), in relation to the governing body of an institution in the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);

“home authority” (*“awdurdod cartref”*) has the meaning given by section 39;

“independent reviewing officer” (*“swyddog adolygu annibynnol”*) has the meaning given by section 15;

“individual development plan” (*“cynllun datblygu unigol”*) has the meaning given by section 10;

“institution in the further education sector” (*“sefydliad yn y sector addysg bellach”*) means an institution falling within section 91(3) of the Further and Higher Education Act 1992;

ystyr “deddfiad” (“*enactment*”) yw darpariaeth sydd wedi ei chynnwys yn unrhyw un o’r canlynol (pa bryd bynnag y’i deddfir neu y’i gwneir) –

- (a) Deddf Seneddol;
- (b) Mesur neu Ddeddf gan Gynulliad Cenedlaethol Cymru (gan gynnwys darpariaeth yn y Ddeddf hon);
- (c) is-ddeddfwriaeth a wneir o dan Ddeddf sy’n dod o fewn paragraff (a) neu o dan Fesur neu Ddeddf sy’n dod o fewn paragraff (b);

ystyr “grŵp comisiynu clinigol” (“*clinical commissioning group*”) yw corff a sefydlir o dan adran 14D o Ddeddf y Gwasanaeth Iechyd Gwladol 2006;

mae “hyfforddiant” (“*training*”) yn cynnwys –

- (a) hyfforddiant llawnamser a rhan-amser;
- (b) hyfforddiant galwedigaethol, cymdeithasol, corfforol a hamdden;

mae i “llety ieuencid perthnasol” (“*relevant youth accommodation*”) yr ystyr a roddir gan adran 39;

ystyr “Llywydd” (“*President*”) yw Llywydd Tribiwnlys Addysg Cymru a benodir o dan adran 91;

ystyr “panel lleyg” (“*lay panel*”) yw’r panel o bersonau a benodir o dan adran 91(5);

ystyr “panel cadeirydd cyfreithiol” (“*legal chair panel*”) yw’r panel o bersonau a benodir o dan adran 91(4) (ac ystyr “cadeirydd cyfreithiol” (“*legal chair*”) yw aelod o’r panel);

ystyr “perchennog” (“*proprietor*”), mewn perthynas â sefydliad nad yw’n ysgol, yw’r person neu’r corff o bersonau sy’n gyfrifol am reoli’r sefydliad;

ystyr “person ifanc” (“*young person*”) yw person sy’n hŷn na’r oedran ysgol gorfodol, ond sy’n iau na 25 oed;

mae i “person sy’n cael ei gadw’n gaeth” (“*detained person*”) yr ystyr a roddir gan adran 39;

ystyr “plentyn” (“*child*”) yw person nad yw’n hŷn na’r oedran ysgol gorfodol;

ystyr “rhagnodedig” ac “a ragnodir” (“*prescribed*”) yw wedi ei ragnodi mewn rheoliadau;

ystyr “rheoliadau” (“*regulations*”) yw rheoliadau a wneir gan Weinidogion Cymru;

ystyr “sefydliad prif ffrwd yn y sector addysg bellach” (“*mainstream institution in the further education sector*”) yw sefydliad yn y sector addysg bellach nad yw wedi ei drefnu’n arbennig i ddarparu addysg neu hyfforddiant ar gyfer personau ag anghenion dysgu ychwanegol;

ystyr “sefydliad yn y sector addysg bellach” (“*institution in the further education sector*”) yw sefydliad sy’n dod o fewn adran 91(3) o Ddeddf Addysg Bellach ac Uwch 1992;

mae i “swyddog adolygu annibynnol” (“*independent reviewing officer*”) yr ystyr a roddir gan adran 15;

“lay panel” (“*panel lleyg*”) means the panel of persons appointed under section 91(5);

“legal chair panel” (“*panel cadeirydd cyfreithiol*”) means the panel of persons appointed under section 91(4) (and “legal chair” (“*cadeirydd cyfreithiol*”) means a member of the panel);

“local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales, except where specific reference is made to a local authority in England;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c. 42);

“mainstream institution in the further education sector” (“*sefydliad prif ffrwd yn y sector addysg bellach*”) means an institution in the further education sector that is not specially organised to provide education or training for persons with additional learning needs;

“mainstream maintained school” (“*ysgol brif ffrwd a gynhelir*”) means a maintained school that is not –

- (a) a special school, or
- (b) a pupil referral unit;

“maintained school” (“*ysgol a gynhelir*”) means –

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school not established in a hospital,
- (c) a maintained nursery school, or
- (d) a pupil referral unit;

“National Health Service Commissioning Board” (“*Bwrdd Comisiynu’r Gwasanaeth Iechyd Gwladol*”) means the body established under section 1H of the National Health Service Act 2006;

“NHS body” (“*corff GIG*”) means –

- (a) a Local Health Board, or
- (b) an NHS trust;

“NHS foundation trust” (“*ymddiriedolaeth sefydledig GIG*”) has the meaning given by section 30 of the National Health Service Act 2006;

“NHS trust” (“*ymddiriedolaeth GIG*”) means a National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006;

“personal education plan” (“*cyllun addysg personol*”) has the meaning given by section 15;

“President” (“*Llywydd*”) means the President of the Education Tribunal for Wales appointed under section 91;

“proprietor” (“*perchennog*”), in relation to an institution that is not a school, means the person or body of persons responsible for the management of the institution;

ystyr "tîm troseddwyd ifanc" (*"youth offending team"*) yw tîm a sefydlir o dan adran 39 o Ddeddf Trosedd ac Anhrefn 1998 (p. 37);

ystyr "Tribiwnlys" (*"Tribunal"*) yw Tribiwnlys Addysg Cymru (gweler adran 91); mae i "uned cyfeirio disgyblion" yr ystyr a roddir i "pupil referral unit" gan adran 19(2) o Ddeddf Addysg 1996 (p. 56);

ystyr "ymddiriedolaeth GIG" (*"NHS trust"*) yw ymddiriedolaeth Gwasanaeth Iechyd Gwladol a sefydlir o dan adran 18 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006;

mae i "ymddiriedolaeth sefydledig GIG" yr ystyr a roddir i "NHS foundation trust" gan adran 30 o Ddeddf y Gwasanaeth Iechyd Gwladol 2006;

ystyr "ysgol a gynhelir" (*"maintained school"*) yw –

- (a) ysgol gymunedol, sefydledig neu wirfoddol,
- (b) ysgol arbennig gymunedol neu sefydledig nas sefydlwyd mewn ysbyty,
- (c) ysgol feithrin a gynhelir, neu
- (d) uned cyfeirio disgyblion;

ystyr "ysgol brif ffrwd a gynhelir" (*"mainstream maintained school"*) yw ysgol a gynhelir –

- (a) nad yw'n ysgol arbennig, a
- (b) nad yw'n uned cyfeirio disgyblion.

(2) Yn y diffiniad o "ysgol a gynhelir" yn is-adran (1), mae i –

- (a) ysgol gymunedol, sefydledig neu wirfoddol (*"community, foundation or voluntary school"*), a
- (b) ysgol arbennig gymunedol neu sefydledig (*"community or foundation special school"*),

yr ystyr a roddir gan Ddeddf Safonau a Fframwaith Ysgolion 1998 (p. 31).

(3) Yn y Ddeddf hon –

- (a) mae sefydliad yn y sector addysg bellach yng Nghymru os cynhelir ei weithgareddau yn gyfan gwbl neu'n bennaf yng Nghymru;
- (b) mae sefydliad yn y sector addysg bellach yn Lloegr os cynhelir ei weithgareddau yn gyfan gwbl neu'n bennaf yn Lloegr.

(4) At ddibenion y Ddeddf hon, mae awdurdod lleol yn gyfrifol am blentyn neu berson ifanc os yw'r plentyn neu'r person ifanc yn ardal yr awdurdod.

(5) Mae i gyfeiriad yn y Ddeddf hon at blentyn sy'n derbyn gofal gan awdurdod lleol (sut bynnag y'i mynegir) yr ystyr a roddir gan adran 15, ac mae cyfeiriadau at awdurdod lleol yn gofalu am blentyn i gael eu dehongli yn unol â hynny.

(6) Mae Deddf Addysg 1996 (*"Deddf 1996"*) a darpariaethau blaenorol y Ddeddf hon (ac eithrio i'r graddau y bônt yn diwygio Deddfau eraill) i gael eu dehongli fel pe cynhwysid y darpariaethau hynny yn Neddf 1996.



“prescribed” (“*rhagnodedig*” and “*a ragnodir*”) means prescribed in regulations;

“pupil referral unit” (“*uned cyfeirio disgyblion*”) has the meaning given by section 19(2) of the Education Act 1996 (c. 56);

“regulations” (“*rheoliadau*”) means regulations made by the Welsh Ministers;

“relevant youth accommodation” (“*llety ieuentid perthnasol*”) has the meaning given by section 39;

“Special Health Authority” (“*Awdurdod Iechyd Arbennig*”) means a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006 or section 28 of the National Health Service Act 2006;

“training” (“*hyfforddiant*”) includes –

(a) full-time and part-time training;

(a) vocational, social, physical and recreational training;

“Tribunal” (“*Tribiwnlys*”) means the Education Tribunal for Wales (see section 91);

“young person” (“*person ifanc*”) means a person over compulsory school age, but under 25;

“youth offending team” (“*tîm troseddwyd ifanc*”) means a team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

(2) In the definition of “maintained school” in subsection (1) –

(a) a community, foundation or voluntary school, and

(b) a community or foundation special school,

have the meaning given by the School Standards and Framework Act 1998 (c. 31).

(3) In this Act –

(a) an institution in the further education sector is in Wales if its activities are carried on wholly or mainly in Wales;

(b) an institution in the further education sector is in England if its activities are carried on wholly or mainly in England.

(4) For the purposes of this Act, a local authority is responsible for a child or young person if he or she is in the area of the authority.

(5) A reference in this Act (however expressed) to a child who is looked after by a local authority has the meaning given by section 15.

(6) The Education Act 1996 (“the 1996 Act”) and the preceding provisions of this Act (except so far as they amend other Acts) are to be interpreted as if those provisions were contained in the 1996 Act.

- (7) Pan fo ystyr yn cael ei roi i ymadrodd at ddibenion unrhyw ddarpariaeth yn y Ddeddf hon sy'n wahanol i'r ystyr a roddir iddo at ddibenion Deddf 1996, mae'r ystyr hwnnw i fod yn gymwys at ddibenion y ddarpariaeth honno yn lle'r ystyr a roddir at ddibenion Deddf 1996.
- (8) Caiff rheoliadau ddiwygio'r diffiniad o "corff GIG" fel ei fod yn cynnwys Awdurdod Iechyd Arbennig a sefydlir o dan adran 22 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006.

#### **100 Dod i rym**

- (1) Daw'r adran hon ac adrannau 1, 97, 98, 99 ac 101 i rym ar y diwrnod ar ôl y diwrnod y caiff y Ddeddf hon y Cydsyniad Brenhinol.
- (2) Daw paragraff 5 o Atodlen 1 i rym ar ddiwedd y cyfnod o ddau fis sy'n dechrau â'r diwrnod y caiff y Ddeddf hon y Cydsyniad Brenhinol.
- (3) Daw gweddill darpariaethau'r Ddeddf hon i rym ar ddiwrnod a bennir gan Weinidogion Cymru mewn gorchymyn a wneir drwy offeryn statudol.
- (4) Caiff gorchymyn o dan is-adran (3) –
  - (a) pennu diwrnodau gwahanol at ddibenion gwahanol neu ar gyfer achosion gwahanol;
  - (b) gwneud darpariaeth ddarfodol, drosiannol neu arbed mewn cysylltiad â dod â darpariaeth yn y Ddeddf hon i rym.

#### **101 Enw byr a chynnwys y Ddeddf yn y rhestr o Ddeddfau Addysg**

- (1) Enw byr y Ddeddf hon yw Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018.
- (2) Mae'r Ddeddf hon i gael ei chynnwys yn y rhestr o Ddeddfau Addysg a nodir yn adran 578 o Ddeddf Addysg 1996 (p. 56).

- (7) Where an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of the 1996 Act, that meaning is to apply for the purposes of that provision instead of the one given for the purposes of the 1996 Act.
- (8) Regulations may amend the definition of “NHS body” so that it includes a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006.

**100 Coming into force**

- (1) This section and sections 1, 97, 98, 99 and 101 come into force on the day after the day on which this Act receives Royal Assent.
- (2) Paragraph 5 of Schedule 1 comes into force at the end of the period of two months beginning with the day on which this Act receives Royal Assent.
- (3) The remaining provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (4) An order under subsection (3) may –
  - (a) appoint different days for different purposes or cases;
  - (b) make transitory, transitional or saving provision in connection with the coming into force of a provision of this Act.

**101 Short title and inclusion as one of the Education Acts**

- (1) The short title of this Act is the Additional Learning Needs and Education Tribunal (Wales) Act 2018.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).

ATODLEN 1  
(a gyflwynir gan adran 96)

MÂN DDIWYGIADAU A DIWYGIADAU CANLYNIADOL A DIDDYMIADAU

*Deddf Gwasanaethau Cymdeithasol Awdurdodau Lleol 1970 (p. 42)*

- 1 Yn Atodlen 1 i Ddeddf Gwasanaethau Cymdeithasol Awdurdodau Lleol 1970 (swyddogaethau gwasanaethau cymdeithasol), hepgorer y cofnod ar gyfer adran 322 o Ddeddf Addysg 1996.

*Deddf Plant 1989 (p. 41)*

- 2 (1) Mae Deddf Plant 1989 wedi ei diwygio fel a ganlyn.  
 (2) Yn adran 23E(1A) (cynlluniau llwybr) –  
 (a) ym mharagraff (b), hepgorer “Part 4 of the Education Act 1996 or”;  
 (b) ar ôl paragraff (b), mewnosoder –  
 “(ba) Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”.
- (3) Yn adran 36 (gorchmynion goruchwylio addysg), ar y diwedd, mewnosoder –  
 “(11) Where, for the purposes of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, a local authority in Wales is responsible for a child or a child is looked after by a local authority in Wales, the reference to special educational needs in subsection (4) is to be interpreted as a reference to additional learning needs (which has the same meaning as in that Act).”

*Deddf Tribiwnlysoedd ac Ymchwiliadau 1992 (p. 53)*

- 3 Yn Atodlen 1 i Ddeddf Tribiwnlysoedd ac Ymchwiliadau 1992 (tribiwnlysoedd y mae'r Ddeddf yn gymwys iddynt), yn Rhan 1, yn y tabl –  
 (a) yn y golofn gyntaf, yn lle “Special educational” rhodder “Additional learning”;  
 (b) yn yr ail golofn, yn lle paragraff 40B rhodder “40B The Education Tribunal for Wales”.

*Deddf Addysg 1996 (p. 56)*

- 4 (1) Mae Deddf Addysg 1996 wedi ei diwygio fel a ganlyn.  
 (2) Yn adran 7 (dyletswydd rhieni i sicrhau addysg i blant o'r oedran ysgol gorfodol), ym mharagraff (b), ar ôl “special educational needs” mewnosoder “(in the case of a child who is in the area of a local authority in England) or additional learning needs (in the case of a child who is in the area of a local authority in Wales)”.
- (3) Yn adran 14 (swyddogaethau mewn cysylltiad â darparu ysgolion cynradd ac uwchradd) –

SCHEDULE 1  
*(introduced by section 96)*

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

*Local Authority Social Services Act 1970 (c. 42)*

- 1 In Schedule 1 to the Local Authority Social Services Act 1970 (social services functions), omit the entry for section 322 of the Education Act 1996.

*Children Act 1989 (c. 41)*

- 2 (1) The Children Act 1989 is amended as follows.
- (2) In section 23E(1A) (pathway plans)—
- (a) in paragraph (b), omit “Part 4 of the Education Act 1996 or”;
- (b) after paragraph (b), insert—
- “(ba) Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”.
- (3) In section 36 (education supervision orders), at the end, insert—
- “(11) Where, for the purposes of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, a local authority in Wales is responsible for a child or a child is looked after by a local authority in Wales, the reference to special educational needs in subsection (4) is to be interpreted as a reference to additional learning needs (which has the same meaning as in that Act).”

*Tribunals and Inquiries Act 1992 (c. 53)*

- 3 In Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals to which the Act applies), in Part 1, in the table—
- (a) in the first column, for “Special educational” substitute “Additional learning”;
- (b) in the second column, for paragraph 40B substitute “40B The Education Tribunal for Wales”.

*Education Act 1996 (c. 56)*

- 4 (1) The Education Act 1996 is amended as follows.
- (2) In section 7 (duty of parents to secure education of children of compulsory school age), in paragraph (b), after “special educational needs” insert “(in the case of a child who is in the area of a local authority in England) or additional learning needs (in the case of a child who is in the area of a local authority in Wales)”.
- (3) In section 14 (functions in respect of provision of primary and secondary schools)—

- (a) yn is-adran (4B), yn lle "special educational needs" rhodder "additional learning needs";
  - (b) yn is-adran (6)(b), ar ôl "needs" mewnosoder "(in the case of a local authority in England) or the need for securing that additional learning provision is made for pupils who have additional learning needs (in the case of a local authority in Wales)".
- (4) Yn adran 15A (pwerau mewn cysylltiad ag addysg a hyfforddiant), yn is-adran (3), ym mharagraff (b), yn lle "learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)" rhodder "additional learning needs".
- (5) Yn adran 15B (swyddogaethau mewn cysylltiad ag addysg ar gyfer personau sy'n hŷn na 19 oed), yn is-adran (3), ym mharagraff (b), yn lle "learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)" rhodder "additional learning needs".
- (6) Yn adran 18A (darparu addysg ar gyfer personau sy'n cael eu cadw'n gaeth mewn llety ieuentid perthnasol), yn is-adran (2) –
- (a) ym mharagraff (b), ar y dechrau, mewnosoder "in the case of a local authority in England,";
  - (b) ym mharagraff (bb), yn lle "any learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)" rhodder "any additional learning needs".
- (7) Yn adran 19 (darpariaeth eithriadol o addysg mewn unedau cyfeirio disgyblion neu mewn mannau eraill), yn is-adran (6), yn y diffiniad o "suitable education" –
- (a) ar ôl "young person" mewnosoder "in the area of a local authority in England";
  - (b) ar ôl "have" mewnosoder "and in relation to a child or young person in the area of a local authority in Wales, means efficient education suitable to the child's or young person's age, ability and aptitude and to any additional learning needs the child or young person may have".
- (8) Yn adran 29 (darparu gwybodaeth gan awdurdodau lleol), ar ôl is-adran (4) mewnosoder –
- “(4A) In subsection (4) as it applies in relation to the Welsh Ministers, the reference to special educational needs is to be interpreted as a reference to additional learning needs.”
- (9) Mae Pennod 1 o Ran 4 (plant yng Nghymru ag anghenion addysgol arbennig) wedi ei diddymu.
- (10) Yn adran 337 (ysgolion arbennig) –
- (a) daw'r darpariaethau presennol yn is-adran (1);
  - (b) yn is-adran (1), ar ôl "A school" mewnosoder "in England";
  - (c) ar ôl is-adran (1) mewnosoder –
- “(2) A school in Wales is a special school if it is specially organised to make additional learning provision for pupils with additional learning needs and it is maintained by a local authority.”
- (11) Hepgorer adran 348 (darparu addysg arbennig mewn ysgolion nas cynhelir).

- (a) in subsection (4B), for “special educational needs” substitute “additional learning needs”;
  - (b) in subsection (6)(b), after “needs” insert “(in the case of a local authority in England) or the need for securing that additional learning provision is made for pupils who have additional learning needs (in the case of a local authority in Wales)”.
- (4) In section 15A (powers in respect of education and training), in subsection (3), in paragraph (b), for “learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)” substitute “additional learning needs”.
- (5) In section 15B (functions in respect of education for persons over 19), in subsection (3), in paragraph (b), for “learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)” substitute “additional learning needs”.
- (6) In section 18A (provision of education for persons subject to youth detention), in subsection (2) –
- (a) in paragraph (b), at the beginning, insert “in the case of a local authority in England,”;
  - (b) in paragraph (bb), for “any learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)” substitute “any additional learning needs”.
- (7) In section 19 (exceptional provision of education in pupil referral units or elsewhere), in subsection (6), in the definition of “suitable education” –
- (a) after “young person” insert “in the area of a local authority in England”;
  - (b) after “have” insert “and in relation to a child or young person in the area of a local authority in Wales, means efficient education suitable to the child’s or young person’s age, ability and aptitude and to any additional learning needs the child or young person may have”.
- (8) In section 29 (provision of information by local authorities), after subsection (4) insert –
- “(4A) In subsection (4) as it applies in relation to the Welsh Ministers, the reference to special educational needs is to be interpreted as a reference to additional learning needs.”
- (9) Chapter 1 of Part 4 (children in Wales with special educational needs) is repealed.
- (10) In section 337 (special schools) –
- (a) the current provisions become subsection (1);
  - (b) in subsection (1), after “A school” insert “in England”;
  - (c) after subsection (1) insert –
- “(2) A school in Wales is a special school if it is specially organised to make additional learning provision for pupils with additional learning needs and it is maintained by a local authority.”
- (11) Omit section 348 (provision of special education at non-maintained schools).

- (12) Yn adran 349 (amrywio gweithredoedd ymddiried etc. drwy orchymyn) –
- (a) yn is-adran (1) –
    - (i) yn lle “appropriate national authority” rhodder “Secretary of State”;
    - (ii) yn lle “it” rhodder “the Secretary of State”;
  - (b) hepgorer is-adran (1A).
- (13) Yn adran 436A (dyletswydd i wneud trefniadau i nodi plant nad ydynt yn cael addysg), yn is-adran (3), ar ôl “any special educational needs he may have” mewnosoder “(in the case of a local authority in England) or suitable to the child’s age, ability and aptitude and to any additional learning needs the child may have (in the case of a local authority in Wales)”.
- (14) Yn adran 438 (dewis ysgol: plentyn heb gynllun na datganiad) –
- (a) yn is-adran (1), yn lle “a statement under section 324” rhodder “a child for whom an individual development plan is maintained in which a particular school is named”;
  - (b) yn is-adran (6), ym mharagraff (c), yn lle “to any special educational needs he may have” rhodder “ –
    - (i) (in the case of a local authority in England) any special educational needs the child may have, or
    - (ii) (in the case of a local authority in Wales) any additional learning needs the child may have”;
  - (c) yn y pennawd, yn lle “or statement of special educational needs” rhodder “, or an individual development plan which names a school”.
- (15) Yn adran 440 (diwygio gorchymyn ar gais rhiant: plentyn heb gynllun na datganiad) –
- (a) yn is-adran (1), yn lle “a statement under section 324” rhodder “a child for whom an individual development plan is maintained in which a particular school is named”;
  - (b) yn is-adran (4), ym mharagraff (b), yn lle “to any special educational needs he may have” rhodder “ –
    - (i) (in the case of a local authority in England) any special educational needs the child may have, or
    - (ii) (in the case of a local authority in Wales) any additional learning needs the child may have”;
  - (c) yn y pennawd, yn lle “or statement of special educational needs” rhodder “, or an individual development plan which names a school”.
- (16) Yn adran 441 (dewis ysgol: plentyn gyda chynllun neu ddatganiad) –
- (a) yn is-adran (1) –
    - (i) ar ôl “where a local authority” mewnosoder “in England”;
    - (ii) hepgorer “(in the case of a local authority in England) or a statement under section 324 (in the case of a local authority in Wales)”;
  - (b) yn is-adran (2), hepgorer “or statement”;



- (12) In section 349 (variation of trust deeds etc. by order) –
- (a) in subsection (1) –
    - (i) for “appropriate national authority” substitute “Secretary of State”;
    - (ii) for “it” substitute “the Secretary of State”;
  - (b) omit subsection (1A).
- (13) In section 436A (duty to make arrangements to identify children not receiving education), in subsection (3), after “any special educational needs he may have” insert “(in the case of a local authority in England) or suitable to the child’s age, ability and aptitude and to any additional learning needs the child may have (in the case of a local authority in Wales)”.
- (14) In section 438 (choice of school: child without plan or statement) –
- (a) in subsection (1), for “a statement under section 324” substitute “a child for whom an individual development plan is maintained in which a particular school is named”;
  - (b) in subsection (6), in paragraph (c), for “to any special educational needs he may have” substitute “ –
    - (i) (in the case of a local authority in England) any special educational needs the child may have, or
    - (ii) (in the case of a local authority in Wales) any additional learning needs the child may have”;
  - (c) in the heading, for “or statement of special educational needs” substitute “, or an individual development plan which names a school”.
- (15) In section 440 (amendment of order at request of parent: child without plan or statement) –
- (a) in subsection (1), for “a statement under section 324” substitute “a child for whom an individual development plan is maintained in which a particular school is named”;
  - (b) in subsection (4), in paragraph (b), for “to any special educational needs he may have” substitute “ –
    - (i) (in the case of a local authority in England) any special educational needs the child may have, or
    - (ii) (in the case of a local authority in Wales) any additional learning needs the child may have”;
  - (c) in the heading, for “or statement of special educational needs” substitute “, or an individual development plan which names a school”.
- (16) In section 441 (choice of school: child with plan or statement) –
- (a) in subsection (1) –
    - (i) after “where a local authority” insert “in England”;
    - (ii) omit “(in the case of a local authority in England) or a statement under section 324 (in the case of a local authority in Wales)”;
  - (b) in subsection (2), omit “or statement”;

- (c) yn is-adran (3) –
    - (i) yn y geiriau agoriadol, hepgorer “or statement”;
    - (ii) ym mharagraff (a), hepgorer “or the statement”;
  - (d) hepgorer is-adran (3A);
  - (e) yn is-adran (4) –
    - (i) ym mharagraff (a), hepgorer “or a statement under section 324”;
    - (ii) ym mharagraff (b), hepgorer “or statement”;
  - (f) yn y pennawd, hepgorer “or statement of special educational needs”.
- (17) Ar ôl adran 441 mewnosoder –

**“441A Choice of school: child with individual development plan which names a school**

- (1) Where a local authority in Wales are required by virtue of section 437(3) to serve a school attendance order in respect of a child for whom an individual development plan is maintained in which a particular school is named, that school must be named in the order.
  - (2) Where –
    - (a) a school attendance order is in force in respect of a child for whom an individual development plan is maintained in which a particular school is named, and
    - (b) the name of the school specified in the plan is changed,
 the local authority must amend the order accordingly.
  - (3) Where –
    - (a) a school attendance order is in force in respect of a child for whom no individual development plan is maintained in which a particular school is named, and
    - (b) an individual development plan in which a particular school is named begins to be maintained for the child,
 the local authority must amend the order accordingly.”
- (18) Yn adran 442 (dirymu gorchymyn ar gais rhiant) –
- (a) yn is-adran (5) –
    - (i) yn y geiriau agoriadol, hepgorer “or a statement under section 324 (in the case of a local authority in Wales)”;
    - (ii) ym mharagraff (a), hepgorer “or the statement”;
    - (iii) ym mharagraff (b), hepgorer “or the statement”;
  - (b) ar ôl is-adran (5) mewnosoder –
    - “ (6) Where, in the case of a local authority in Wales, the child in question is one for whom an individual development plan is maintained by the authority or by another local authority –

- (c) in subsection (3) –
    - (i) in the opening words, omit “or statement”;
    - (ii) in paragraph (a), omit “or the statement”;
  - (d) omit subsection (3A);
  - (e) in subsection (4) –
    - (i) in paragraph (a), omit “or a statement under section 324”;
    - (ii) in paragraph (b), omit “or statement”;
  - (f) in the heading, omit “or statement of special educational needs”.
- (17) After section 441 insert –
- “441A Choice of school: child with individual development plan which names a school**
- (1) Where a local authority in Wales are required by virtue of section 437(3) to serve a school attendance order in respect of a child for whom an individual development plan is maintained in which a particular school is named, that school must be named in the order.
  - (2) Where –
    - (a) a school attendance order is in force in respect of a child for whom an individual development plan is maintained in which a particular school is named, and
    - (b) the name of the school specified in the plan is changed,the local authority must amend the order accordingly.
  - (3) Where –
    - (a) a school attendance order is in force in respect of a child for whom no individual development plan is maintained in which a particular school is named, and
    - (b) an individual development plan in which a particular school is named begins to be maintained for the child,the local authority must amend the order accordingly.”
- (18) In section 442 (revocation of order at request of parent) –
- (a) in subsection (5) –
    - (i) in the opening words, omit “or a statement under section 324 (in the case of a local authority in Wales)”;
    - (ii) in paragraph (a), omit “or the statement”;
    - (iii) in paragraph (b), omit “or the statement”;
  - (b) after subsection (5) insert –
    - “(6) Where, in the case of a local authority in Wales, the child in question is one for whom an individual development plan is maintained by the authority or by another local authority –

- (a) subsections (2) to (4) do not apply if a school or other institution is named in the individual development plan, and
  - (b) in any other case a direction under subsection (4) may require the authority maintaining the individual development plan to make such amendments to the plan as is considered necessary or expedient in consequence of the determination."
- (19) Yn adran 458 (codi tâl am fwyd a llety mewn ysgolion byrddio) –
- (a) yn is-adran (1), ar ôl "(5)" mewnosoder "and section 49 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018";
  - (b) ar y diwedd, mewnosoder –
    - "(6) In its application to a local authority in Wales, references in this section to special educational needs are to be interpreted as references to additional learning needs."
- (20) Yn adran 463 (ystyr "ysgol annibynnol"), yn is-adran (1), ym mharagraff (b), yn lle "is maintained or for whom a statement is maintained under section 324" rhodder "or an individual development plan is maintained".
- (21) Yn adran 483A (colegau dinas ac academiâu: anghenion addysgol arbennig) –
- (a) yn is-adran (1), hepgorer "if the condition in subsection (3) is satisfied";
  - (b) yn is-adran (2), ym mharagraff (a), yn lle "or a statement under section 324 is maintained" rhodder "is maintained by a local authority in England, or for whom an individual development plan is maintained by a local authority in Wales";
  - (c) hepgorer is-adran (3);
  - (d) yn is-adran (4) –
    - (i) ym mharagraff (a), yn lle "the plan or the statement" rhodder "the EHC plan, or for making the additional learning provision specified in the individual development plan (as the case may be)";
    - (ii) ym mharagraff (b), yn lle "the plan or the statement" rhodder "the EHC plan or the individual development plan";
  - (e) yn y pennawd, ar ôl "needs" mewnosoder "and additional learning needs".
- (22) Yn adran 510 (darparu dillad), yn is-adran (2), ar ôl "special educational provision" mewnosoder "or additional learning provision (as the case may be)".
- (23) Yn adran 514 (darparu bwyd a llety ac eithrio mewn ysgol) –
- (a) yn is-adran (2), ar ôl "local authority" mewnosoder "in England";
  - (b) ar y diwedd, mewnosoder –
    - "(8) In its application to a local authority in Wales, references in this section to special educational needs are to be interpreted as references to additional learning needs."
- (24) Yn adran 517 (talw ffioedd mewn ysgolion nas cynhelir gan awdurdod lleol) –
- (a) yn is-adran (1), hepgorer ", Part 4 (special educational needs)";

- (a) subsections (2) to (4) do not apply if a school or other institution is named in the individual development plan, and
  - (b) in any other case a direction under subsection (4) may require the authority maintaining the individual development plan to make such amendments to the plan as is considered necessary or expedient in consequence of the determination."
- (19) In section 458 (charges for board and lodging at boarding schools) –
  - (a) in subsection (1), after "(5)" insert "and section 49 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018";
  - (b) at the end, insert –
    - "(6) In its application to a local authority in Wales, references in this section to special educational needs are to be interpreted as references to additional learning needs."
- (20) In section 463 (meaning of "independent school"), in subsection (1), in paragraph (b), for "is maintained or for whom a statement is maintained under section 324" substitute "or an individual development plan is maintained".
- (21) In section 483A (city colleges and academies: special educational needs) –
  - (a) in subsection (1), omit "if the condition in subsection (3) is satisfied";
  - (b) in subsection (2), in paragraph (a), for "or a statement under section 324 is maintained" substitute "is maintained by a local authority in England, or for whom an individual development plan is maintained by a local authority in Wales";
  - (c) omit subsection (3);
  - (d) in subsection (4) –
    - (i) in paragraph (a), for "the plan or the statement" substitute "the EHC plan, or for making the additional learning provision specified in the individual development plan (as the case may be)";
    - (ii) in paragraph (b), for "the plan or the statement" substitute "the EHC plan or the individual development plan";
  - (e) in the heading, after "needs" insert "and additional learning needs".
- (22) In section 510 (provision of clothing), in subsection (2), after "special educational provision" insert "or additional learning provision (as the case may be)".
- (23) In section 514 (provision of board and lodging otherwise than at a school) –
  - (a) in subsection (2), after "local authority" insert "in England";
  - (b) at the end, insert –
    - "(8) In its application to a local authority in Wales, references in this section to special educational needs are to be interpreted as references to additional learning needs."
- (24) In section 517 (payment of fees at schools not maintained by a local authority) –
  - (a) in subsection (1), omit ", Part 4 (special educational needs)";

(b) yn is-adran (6), hepgorer paragraff (e);

(c) ar y diwedd, mewnosoder –

“(8) In this section as it applies where a local authority in Wales makes arrangements under section 18 for primary or secondary education to be provided for a pupil at a school not maintained by a local authority –

(a) references to special educational needs are to be interpreted as references to additional learning needs, and

(b) references to special educational provision are to be interpreted as references to additional learning provision.

(9) Subsection (5) does not apply where board and lodging is secured for a pupil under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”

(25) Hepgorer adran 562C (person sy'n cael ei cadw'n gaeth ac sydd â datganiad anghenion addysgol arbennig).

(26) Hepgorer adran 562D (darpariaeth addysgol arbennig briodol: trefniadau rhwng awdurdodau lleol).

(27) Yn adran 562F (darparu gwybodaeth am bersonau sy'n cael eu cadw'n gaeth), hepgorer is-adrannau (5) a (6).

(28) Hepgorer adran 562G (gwybodaeth am berson sy'n cael ei gadw'n gaeth i gael ei darparu os oedd datganiad anghenion addysgol arbennig yn cael ei gynnal gynt).

(29) Hepgorer adran 562H (rhyddhau person sy'n cael ei gadw'n gaeth yr ymddengys i'r awdurdod lletyol ei bod yn ofynnol ei asesu).

(30) Yn adran 569 (rheoliadau) –

(a) yn is-adran (2B) –

(i) hepgorer “332ZC, 332AA, 332BA, 332BB, 336,”;

(ii) yn lle “or 444B” rhodder “, 444B or (unless subsection (2BA) applies) Chapter 5A”;

(b) ar ôl is-adran (2B), mewnosoder –

“(2BA) A statutory instrument which contains (whether alone or with other provision) regulations made by the Welsh Ministers under both section 562J(4) and section 39(2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

(2BB) A statutory instrument which contains (whether alone or with other provision) regulations under section 579(3C) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.”;

(c) hepgorer is-adrannau (5) a (6).

(31) Hepgorer adran 569A (rheoliadau a wneir gan Weinidogion Cymru o dan Bennod 5A).

- (b) in subsection (6), omit paragraph (e);
- (c) at the end, insert –
  - “(8) In this section as it applies where a local authority in Wales makes arrangements under section 18 for primary or secondary education to be provided for a pupil at a school not maintained by a local authority –
    - (a) references to special educational needs are to be interpreted as references to additional learning needs, and
    - (b) references to special educational provision are to be interpreted as references to additional learning provision.
  - (9) Subsection (5) does not apply where board and lodging is secured for a pupil under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”
- (25) Omit section 562C (detained person with statement of special educational needs).
- (26) Omit section 562D (appropriate special educational provision: arrangements between local authorities).
- (27) In section 562F (provision of information about detained persons), omit subsections (5) and (6).
- (28) Omit section 562G (information about detained person to be provided where statement of special educational needs previously maintained).
- (29) Omit section 562H (release of detained person appearing to host authority to require assessment).
- (30) In section 569 (regulations) –
  - (a) in subsection (2B) –
    - (i) omit “332ZC, 332AA, 332BA, 332BB, 336,”;
    - (ii) for “or 444B” substitute “, 444B or (unless subsection (2BA) applies) Chapter 5A”;
  - (b) after subsection (2B), insert –
    - “(2BA) A statutory instrument which contains (whether alone or with other provision) regulations made by the Welsh Ministers under both section 562J(4) and section 39(2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.
    - (2BB) A statutory instrument which contains (whether alone or with other provision) regulations under section 579(3C) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.”;
- (c) omit subsections (5) and (6).
- (31) Omit section 569A (regulations made by the Welsh Ministers under Chapter 5A).

(32) Yn adran 579 (dehongli cyffredinol) –

(a) yn is-adran (1) –

- (i) yn y diffiniad o “special educational needs”, hepgorer paragraff (b);
- (ii) yn y diffiniad o “special educational provision”, hepgorer paragraff (b);
- (iii) mewnosoder y diffiniadau a ganlyn yn y lleoedd priodol –

““additional learning needs” has the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

““additional learning provision” has the meaning given by section 3 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

““individual development plan” means a plan within Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

(b) hepgorer is-adran (1A).

(33) Yn adran 580 (mynegai) –

(a) mewnosoder y cofnodion a ganlyn yn y lleoedd priodol –

“additional learning needs	section 579(1)”;
“additional learning provision	section 579(1)”;
“individual development plan	section 579(1)”;

(b) hepgorer y cofnodion a ganlyn –

“the appropriate national authority (in Chapter 2 of Part 4)	section 337A”;
“the chairmen’s panel (in Part IV)	section 333(2)”;
“child for whom a local authority are responsible (in Part IV)	section 321(3)”;
“the lay panel (in Part IV)	section 333(2)”;
“learning difficulty (in relation to a child in the area of a local authority in Wales)	section 312(2) and (3) (subject to subsection (3A))”;
“the President (in Part IV)	section 333(2)”;
“responsible for a child (in Part IV in relation to a local authority)	section 321(3)”;
“subject to learning difficulty assessment	section 579(1)”;
“the Tribunal (in Part IV) (in Chapter 1 of Part 4)	section 313(5)”;

(c) yn y cofnodion ar gyfer “Child”, hepgorer y cofnod ar gyfer “(in Part IV)”;

(d) yn y cofnod ar gyfer “grant maintained special school”, yn lle “sections 337(4) and” rhodder “section”;



(32) In section 579 (general interpretation) –

(a) in subsection (1) –

- (i) in the definition of “special educational needs”, omit paragraph (b);
- (ii) in the definition of “special educational provision”, omit paragraph (b);
- (iii) insert the following definitions at the appropriate places –

““additional learning needs” has the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

““additional learning provision” has the meaning given by section 3 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

““individual development plan” means a plan within Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

(b) omit subsection (1A).

(33) In section 580 (index) –

(a) insert the following entries in the appropriate places –

“additional learning needs	section 579(1)”;
“additional learning provision	section 579(1)”;
“individual development plan	section 579(1)”;

(b) omit the following entries –

“the appropriate national authority (in Chapter 2 of Part 4)	section 337A”;
“the chairmen’s panel (in Part IV)	section 333(2)”;
“child for whom a local authority are responsible (in Part IV)	section 321(3)”;
“the lay panel (in Part IV)	section 333(2)”;
“learning difficulty (in relation to a child in the area of a local authority in Wales)	section 312(2) and (3) (subject to subsection (3A))”;
“the President (in Part IV)	section 333(2)”;
“responsible for a child (in Part IV in relation to a local authority)	section 321(3)”;
“subject to learning difficulty assessment	section 579(1)”;
“the Tribunal (in Part IV) (in Chapter 1 of Part 4)	section 313(5)”;

(c) in the entries for “Child”, omit the entry for “(in Part IV)”;

(d) in the entry for “grant maintained special school”, for “sections 337(4) and” substitute “section”;

- (e) yn y cofnodion ar gyfer “incorporation date”, hepgorer y cofnod ar gyfer “(in Part IV)”;
  - (f) yn y cofnodion ar gyfer “maintained school”, hepgorer y cofnod ar gyfer “(in Part IV)”;
  - (g) yn y cofnod ar gyfer “maintained special school”, yn lle “, 33(1) and 337(3)” rhodder “and 33(1)”.
- (34) Yn Atodlen 36A (swyddogaethau addysg), ym mharagraff 2, yn y cofnod ar gyfer Deddf Dysgu a Sgiliau 2000, hepgorer y cofnod ar gyfer adran 140(5).
- 5 Yn adran 333(5) o Ddeddf Addysg 1996 –
- (a) o flaen y paragraffau, hepgorer “with the agreement of the Secretary of State”;
  - (b) ym mharagraff (b), hepgorer “, with the agreement of the Secretary of State,”.
- 6 O ganlyniad i’r diwygiadau a wneir gan baragraffau 4 a 5 –
- (a) yn Atodlen 7 i Ddeddf Addysg 1997 (p. 44) (mân ddiwygiadau a diwygiadau canlyniadol), hepgorer paragraffau 23 a 24;
  - (b) yn Atodlen 30 i Ddeddf Safonau a Fframwaith Ysgolion 1998 (p. 31) (mân ddiwygiadau a diwygiadau canlyniadol), hepgorer paragraffau 71 i 79, 81, 84 a 186;
  - (c) yn Neddf Anghenion Addysgol Arbennig ac Anabledd 2001 (p. 10) –
    - (i) mae Rhan 1 (anghenion addysgol arbennig) wedi ei diddymu;
    - (ii) yn Rhan 1 o Atodlen 8 (mân ddiwygiadau a diwygiadau canlyniadol: Deddf 1996), hepgorer paragraffau 3, 6 i 11, 13, 14 a 15(3);
  - (d) yn Neddf Addysg 2002 (p. 32) –
    - (i) hepgorer adran 173 (hawl mynediad awdurdod lleol);
    - (ii) hepgorer adran 194(2) (pwerau awdurdodau lleol i wneud darpariaeth ranbarthol);
    - (iii) yn Rhan 2 o Atodlen 7 (Academiâu: atodol), hepgorer paragraff 6(3);
    - (iv) yn Atodlen 18 (Tribiwnlys Anghenion Addysgol Arbennig Cymru) hepgorer paragraffau 1 i 3, 6, 15, 17 (a’r croesbennawd sy’n ei ragflaenu) a 18;
    - (v) yn Atodlen 18, ym mharagraff 13, yn lle “Special Educational Needs Tribunal for Wales under section 333(2) of the Education Act 1996 (c 56)” rhodder “Education Tribunal for Wales under section 91(5) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
    - (vi) yn Atodlen 21 (mân ddiwygiadau a diwygiadau canlyniadol) hepgorer paragraffau 36 i 44 a 58;
  - (e) yn Atodlen 4 i Ddeddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003 (p. 43) (diwygiadau’n ymwneud ag ymddiriedolaethau sefydledig GIG), hepgorer paragraff 104 (a’r croesbennawd sy’n ei ragflaenu) a pharagraff 105;
  - (f) yn Rhan 1 o Atodlen 4 i Ddeddf Diwygio Cyfansoddiadol 2005 (p. 4), hepgorer paragraff 259;

- (e) in the entries for “incorporation date”, omit the entry for “(in Part IV)”;
  - (f) in the entries for “maintained school”, omit the entry for “(in Part IV)”;
  - (g) in the entry for “maintained special school”, for “, 33(1) and 337(3)” substitute “and 33(1)”.
- (34) In Schedule 36A (education functions), in paragraph 2, in the entry for the Learning and Skills Act 2000, omit the entry for section 140(5).
- 5 In section 333(5) of the Education Act 1996 –
- (a) before the paragraphs, omit “with the agreement of the Secretary of State”;
  - (b) in paragraph (b), omit “, with the agreement of the Secretary of State,”.
- 6 In consequence of the amendments made by paragraphs 4 and 5 –
- (a) in Schedule 7 to the Education Act 1997 (c. 44) (minor and consequential amendments), omit paragraphs 23 and 24;
  - (b) in Schedule 30 to the School Standards and Framework Act 1998 (c. 31) (minor and consequential amendments), omit paragraphs 71 to 79, 81, 84 and 186;
  - (c) in the Special Educational Needs and Disability Act 2001 (c. 10) –
    - (i) Part 1 (special educational needs) is repealed;
    - (ii) in Part 1 of Schedule 8 (minor and consequential amendments: the 1996 Act), omit paragraphs 3, 6 to 11, 13, 14 and 15(3);
  - (d) in the Education Act 2002 (c. 32) –
    - (i) omit section 173 (right of access of local authority);
    - (ii) omit section 194(2) (local authorities’ powers to make regional provision);
    - (iii) in Part 2 of Schedule 7 (Academies: supplementary), omit paragraph 6(3);
    - (iv) in Schedule 18 (Special Educational Needs Tribunal for Wales) omit paragraphs 1 to 3, 6, 15, 17 (and the cross-heading that precedes it) and 18;
    - (v) in Schedule 18, in paragraph 13, for “Special Educational Needs Tribunal for Wales under section 333(2) of the Education Act 1996 (c 56)” substitute “Education Tribunal for Wales under section 91(5) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
    - (vi) in Schedule 21 (minor and consequential amendments) omit paragraphs 36 to 44 and 58;
  - (e) in Schedule 4 to the Health and Social Care (Community Health and Standards Act 2003 (c. 43) (amendments relating to NHS foundation trusts), omit paragraph 104 (and the cross-heading which precedes it) and paragraph 105;
  - (f) in Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4), omit paragraph 259;

- (g) yn Rhan 1 o Atodlen 10 i Ddeddf Tribiwnlysoedd, Llysoedd a Gorfodaeth 2007 (p. 15) (diwygiadau'n ymwneud â phenodiadau barnwrol), hepgorer paragraff 28;
- (h) yn Atodlen 18 i Ddeddf Addysg 2005 (p. 18) (diwygiadau amrywiol), hepgorer paragraff 2;
- (i) yn Atodlen 2 i Ddeddf Gofal Plant 2006 (p. 21) (mân ddiwygiadau a diwygiadau canlyniadol), hepgorer paragraff 22;
- (j) yn Neddf Addysg ac Arolygiadau 2006 (p. 40) –
  - (i) hepgorer adran 173 (cydlynwyr anghenion addysgol arbennig);
  - (ii) hepgorer adran 174 (terfynau amser sy'n ymwneud â datganiadau anghenion addysgol arbennig);
- (k) yn Atodlen 1 i Ddeddf y Gwasanaeth Iechyd Gwladol (Darpariaethau Canlyniadol) 2006 (p. 43) (diwygiadau canlyniadol), hepgorer paragraff 182;
- (l) yn Neddf Addysg a Sgiliau 2008 (p. 25) –
  - (i) yn adran 147 (cymeradwyo ysgolion annibynnol: diwygiadau canlyniadol), yn is-adran (2) hepgorer paragraffau (a) a (b), a hepgorer is-adran (3);
  - (ii) yn Atodlen 1 (diwygiadau), hepgorer paragraffau 7 a 10;
  - (iii) yn Atodlen 1 (diwygiadau), ym mharagraff 11, hepgorer y cofnod a ganlyn –

“the appropriate national authority (in Chapter 2 of Part 4)	section 337A”;
--	----------------

- (m) ym Mesur Addysg (Cymru) 2009 (mccc 7) –
  - (i) hepgorer adrannau 1 i 7 (apelau anghenion addysgol arbennig);
  - (ii) yn yr Atodlen (mân ddiwygiadau a diwygiadau canlyniadol) hepgorer paragraff 1 (a'r pennawd sy'n ei ragflaenu), a pharagraffau 2 i 5.
- (n) yn Neddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22) –
  - (i) hepgorer adran 52 (rhyddhau plentyn neu berson ifanc ag anghenion addysgol arbennig oedd yn cael ei gadw'n gaeth);
  - (ii) yn Atodlen 2 (swyddogaethau awdurdodau lleol: mân ddiwygiadau a diwygiadau canlyniadol), hepgorer paragraffau 6 ac 11;
- (o) yn Atodlen 26 i Ddeddf Cydraddoldeb 2010 (p. 15) (diwygiadau), hepgorer paragraffau 36 a 37;
- (p) yn Atodlen 13 i Ddeddf Addysg 2011 (diwygiadau canlyniadol), ym mharagraff 9, hepgorer is-baragraffau (4) a (5);
- (q) yn Atodlen 5 i Ddeddf Iechyd a Gofal Cymdeithasol 2012 (p. 7) (diwygiadau), hepgorer paragraffau 78 a 79;
- (r) yn Rhan 3 o Atodlen 9 i Ddeddf Troseddu a'r Llysoedd 2013 (p. 22) (un llys sirol: diwygiadau), ym mharagraff 52(2) hepgorer y cofnod ar gyfer Deddf Addysg 1996;

- (g) in Part 1 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) (amendments relating to judicial appointments), omit paragraph 28;
- (h) in Schedule 18 to the Education Act 2005 (c. 18) (miscellaneous amendments), omit paragraph 2;
- (i) in Schedule 2 to the Childcare Act 2006 (c. 21) (minor and consequential amendments), omit paragraph 22;
- (j) in the Education and Inspections Act 2006 (c. 40) –
  - (i) omit section 173 (special educational needs co-ordinators);
  - (ii) omit section 174 (time limits relating to statements of special educational needs);
- (k) in Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43) (consequential amendments), omit paragraph 182;
- (l) in the Education and Skills Act 2008 (c. 25) –
  - (i) in section 147 (approval of independent schools: consequential amendments), in subsection (2) omit paragraphs (a) and (b), and omit subsection (3);
  - (ii) in Schedule 1 (amendments), omit paragraphs 7 and 10;
  - (iii) in Schedule 1 (amendments), in paragraph 11, omit the following entry –

“the appropriate national authority (in Chapter 2 of Part 4)	section 337A”;
--	----------------

- (m) in the Education (Wales) Measure 2009 (nawm 7) –
  - (i) omit sections 1 to 7 (special education needs appeals);
  - (ii) in the Schedule (minor and consequential amendments) omit paragraph 1 (and the heading which precedes it), and paragraphs 2 to 5;
- (n) in the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) –
  - (i) omit section 52 (release from detention of child or young person with special educational needs);
  - (ii) in Schedule 2 (local authority functions: minor and consequential amendments), omit paragraphs 6 and 11;
- (o) in Schedule 26 to the Equality Act 2010 (c. 15) (amendments), omit paragraphs 36 and 37;
- (p) in Schedule 13 to the Education Act 2011 (consequential amendments), in paragraph 9, omit sub-paragraphs (4) and (5);
- (q) in Schedule 5 to the Health and Social Care Act 2012 (c. 7) (amendments), omit paragraphs 78 and 79;
- (r) in Part 3 of Schedule 9 to the Crime and Courts Act 2013 (c. 22) (single county court: amendments), in paragraph 52(2) omit the entry for the Education Act 1996;

- (s) yn Atodlen 3 i Ddeddf Plant a Theuluoedd 2014 (p. 6) (diwygiadau canlyniadol), hepgorer paragraffau 9 i 35 a pharagraffau 38, 41(2)(b) (a'r "and" sy'n ei ragflaenu), 42(d) (ac, yn unol â hynny, rhodder yr "and" sy'n ei ragflaenu ar ôl is-baragraff (b)), 44(3) a (4), 55 i 58, 59(c) a 60(c) ac (g);
- (t) hepgorer paragraff 5.

*Deddf Safonau a Fframwaith Ysgolion 1998 (p. 31)*

- 7
- (1) Mae Deddf Safonau a Fframwaith Ysgolion 1998 wedi ei diwygio fel a ganlyn.
  - (2) Yn adran 96(7) (cyfarwyddyd i dderbyn plentyn i ysgol benodedig), yn lle "to any special educational needs" rhodder "(in the case of a local authority in England) to any special educational needs or (in the case of a local authority in Wales) to any additional learning needs".
  - (3) Yn adran 98(7) (derbyn ar gyfer addysg feithrin neu i ysgol feithrin neu arbennig: plant â datganiadau anghenion addysgol arbennig neu gynlluniau AIG), yn lle "statements of special educational needs are maintained under section 324 of the Education Act 1996" rhodder "individual development plans are maintained under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 in respect of which section 48 of that Act applies (duty to admit children to maintained schools)".
  - (4) Yn adran 123 (addysg feithrin - plant ag anghenion addysgol arbennig) –
    - (a) yn is-adran (1)(a), ar ôl "authority" mewnosoder "in England";
    - (b) yn y geiriau ar ôl is-adran (1)(b), hepgorer "or section 313(2) of the Education Act (in the case of education in Wales)";
    - (c) yn is-adran (2), hepgorer "or (as the case may be) Part IV of the Education Act 1996";
    - (d) yn is-adran (3)(a), hepgorer "or (as the case may be) Part IV of the Education Act";
    - (e) yn is-adran (3A)(b), hepgorer "or statement under section 324 of the Education Act";
    - (f) yn is-adran (4), hepgorer paragraff (b).

*Deddf Dysgu a Sgiliau 2000 (p. 21)*

- 8
- (1) Mae Deddf Dysgu a Sgiliau 2000 wedi ei diwygio fel a ganlyn.
  - (2) Yn adran 33N (y cwricwlwm lleol: dehongli), yn y diffiniad o "institution", yn lle "a learning difficulty" hyd at y diwedd, rhodder "additional learning needs (within the meaning given by the Additional Learning Needs and Education Tribunal (Wales) Act 2018);".
  - (3) Yn adran 33P (cymhwyso darpariaethau am y cwricwlwm lleol i fyfyrwyr sy'n ddisgyblion cofrestredig ysgolion arbennig neu sydd ag anawsterau dysgu) –
    - (a) yn y pennawd, yn lle "learning difficulties" rhodder "additional learning needs";
    - (b) yn is-adran (3)(b)(ii), yn lle "a learning difficulty" rhodder "additional learning needs".

- (s) in Schedule 3 to the Children and Families Act 2014 (c. 6) (consequential amendments), omit paragraphs 9 to 35 and paragraphs 38, 41(2)(b) (and the “and” which precedes it), 42(d) (and accordingly place the “and” which precedes it after sub-paragraph (b)), 44(3) and (4), 55 to 58, 59(c) and 60(c) and (g);
- (t) omit paragraph 5.

*School Standards and Framework Act 1998 (c. 31)*

- 7 (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In section 96(7) (direction to admit child to specified school), for “to any special educational needs” substitute “(in the case of a local authority in England) to any special educational needs or (in the case of a local authority in Wales) to any additional learning needs”.
  - (3) In section 98(7) (admission for nursery education or to nursery or special school: children with statements of special educational needs or EHC plans), for “statements of special educational needs are maintained under section 324 of the Education Act 1996” substitute “individual development plans are maintained under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 in respect of which section 48 of that Act applies (duty to admit children to maintained schools)”.
  - (4) In section 123 (nursery education - children with special educational needs) –
    - (a) in subsection (1)(a), after “authority” insert “in England”;
    - (b) in the words after subsection (1)(b), omit “or section 313(2) of the Education Act (in the case of education in Wales)”;
    - (c) in subsection (2), omit “or (as the case may be) Part IV of the Education Act 1996”;
    - (d) in subsection (3)(a), omit “or (as the case may be) Part IV of the Education Act”;
    - (e) in subsection (3A)(b), omit “or statement under section 324 of the Education Act”;
    - (f) in subsection (4), omit paragraph (b).

*Learning and Skills Act 2000 (c. 21)*

- 8 (1) The Learning and Skills Act 2000 is amended as follows.
- (2) In section 33N (the local curriculum: interpretation), in the definition of “institution”, for “a learning difficulty” to the end substitute “additional learning needs (within the meaning given by the Additional Learning Needs and Education Tribunal (Wales) Act 2018);”.
  - (3) In section 33P (application of local curriculum provisions to students who are registered pupils of special schools or who have learning difficulties) –
    - (a) in the heading, for “learning difficulties” substitute “additional learning needs”;
    - (b) in subsection (3)(b)(ii), for “a learning difficulty” substitute “additional learning needs”.

*Deddf Addysg 2002 (p. 32)*

- 9 (1) Mae Deddf Addysg 2002 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 153(2) (addysg feithrin a gyllidir), ar ôl paragraff (a) mewnosoder –
- “(ab) must make provision in the arrangements requiring the provider of the nursery education to have regard to any relevant guidance included in the code on additional learning needs issued under section 4 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and”.
- (3) Hepgorer adran 174 (cydsyniad i leoliad).

*Deddf Diwygio Cyfansoddiadol 2005 (p. 4)*

- 10 Ym mharagraff 4 o Atodlen 7 i Ddeddf Diwygio Cyfansoddiadol 2005 (swyddogaethau gwarchoddedig yr Arglwydd Ganghellor) –
- (a) hepgorer y cofnod ar gyfer adran 333(3) of Ddeddf Addysg 1996 (p. 56);
- (b) mewnosoder y cofnod a ganlyn yn y lle priodol –

*“Additional Learning Needs and Education Tribunal (Wales) Act 2018  
Section 91(3) and (4)”.*

*Deddf y Gwasanaeth Iechyd Gwladol 2006 (p. 41)*

- 11 Yn Atodlen 1 i Ddeddf y Gwasanaeth Iechyd Gwladol 2006 (darpariaeth bellach ynghylch yr Ysgrifennydd Gwladol a gwasanaethau), ym mharagraff 2(1)(b) –
- (a) hepgorer “or 319”;
- (b) ar ôl “the Education Act 1996 (c. 56)” mewnosoder “or section 53 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.

*Deddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42)*

- 12 Yn Atodlen 1 i Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (darpariaeth bellach ynghylch Gweinidogion Cymru a gwasanaethau), ym mharagraff 2(1)(b) –
- (a) hepgorer “or 319”;
- (b) ar ôl “the Education Act 1996 (c 56)” mewnosoder “section 53 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 or section 61 of the Children and Families Act 2014 (c. 6)”.

*Deddf Tribiwnlysoedd, Llysoedd a Gorfodaeth 2007 (p. 15)*

- 13 Yn Rhan 7 o Atodlen 6 i Ddeddf Tribiwnlysoedd, Llysoedd a Gorfodaeth 2007 (tribiwnlysoedd at ddibenion adran 32(3)), hepgorer y cofnod ar gyfer Tribiwnlys Anghenion Addysgol Arbennig Cymru.



*Education Act 2002 (c. 32)*

- 9 (1) The Education Act 2002 is amended as follows.
- (2) In section 153(2) (funded nursery education), after paragraph (a) insert—
- “(ab) must make provision in the arrangements requiring the provider of the nursery education to have regard to any relevant guidance included in the code on additional learning needs issued under section 4 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and”.
- (3) Omit section 174 (consent to placement).

*Constitutional Reform Act 2005 (c. 4)*

- 10 In paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (protected functions of the Lord Chancellor)—
- (a) omit the entry for section 333(3) of the Education Act 1996 (c. 56);
- (b) insert the following entry in the appropriate place—

*“Additional Learning Needs and Education Tribunal (Wales) Act 2018*  
Section 91(3) and (4)“.

*National Health Service Act 2006 (c. 41)*

- 11 In Schedule 1 to the National Health Service Act 2006 (further provision about the Secretary of State and services), in paragraph 2(1)(b)—
- (a) omit “or 319”;
- (b) after “the Education Act 1996 (c. 56)” insert “or section 53 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.

*National Health Service (Wales) Act 2006 (c. 42)*

- 12 In Schedule 1 to the National Health Service (Wales) Act 2006 (further provision about the Welsh Ministers and services), in paragraph 2(1)(b)—
- (a) omit “or 319”;
- (b) after “the Education Act 1996 (c 56)” insert “section 53 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 or section 61 of the Children and Families Act 2014 (c. 6)”.

*Tribunals, Courts and Enforcement Act 2007 (c. 15)*

- 13 In Part 7 of Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 (tribunals for the purposes of section 32(3)), omit the entry for the Special Educational Needs Tribunal for Wales.

*Mesur Teithio gan Ddysgwyr (Cymru) 2008 (mccc 2)*

- 14 (1) Mae Mesur Teithio gan Ddysgwyr (Cymru) 2008 wedi ei ddiwygio fel a ganlyn.
- (2) Yn adran 1 (y prif dermau a ddefnyddir yn y Mesur), yn is-adran (4)–
- (a) ym mharagraff (c), yn lle “datganiadau a gedwir o dan adran 324 o Ddeddf Addysg 1996 (p.56)” rhodder “cynlluniau datblygu unigol a gynhelir o dan adran 14 neu 19 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018”;
- (b) yn lle paragraff (h) rhodder–
- “(h) sefydliadau ôl-16 arbennig annibynnol o fewn yr ystyr a roddir gan adran 56 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 a enwir mewn cynlluniau datblygu unigol a gynhelir o dan adran 14 neu 19 o'r Ddeddf honno;”.
- (3) Yn adran 3 (dyletswydd awdurdod lleol i wneud trefniadau cludo), yn y tabl–
- (a) yn y golofn gyntaf–
- (i) yn lle “a enwir mewn datganiad a gedwir mewn cysylltiad â'r plentyn o dan adran 324 o Ddeddf Addysg 1996” y tro cyntaf a'r ail dro y mae'n ymddangos rhodder “neu sefydliad arall a enwir mewn cynllun datblygu unigol a gynhelir ar gyfer y plentyn o dan adran 14 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018”;
- (ii) yn lle “a enwir mewn datganiad a gedwir mewn cysylltiad â'r plentyn o dan adran 324 o Ddeddf Addysg 1996” y trydydd tro a'r pedwerydd tro y mae'n ymddangos rhodder “neu sefydliad arall a enwir mewn cynllun datblygu unigol a gynhelir ar gyfer y plentyn o dan adran 19 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018”;
- (b) yn yr ail golofn yn lle “a enwir mewn datganiad a gedwir mewn cysylltiad â'r plentyn o dan adran 324 o Ddeddf Addysg 1996” y tro cyntaf a'r ail dro y mae'n ymddangos rhodder “neu sefydliad arall a enwir mewn cynllun datblygu unigol a gynhelir ar gyfer y plentyn o dan adran 14 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018”.
- (4) Yn adran 14 (gorfodi cod ymddygiad wrth deithio: tynnu'n ôl drefniadau teithio), yn is-adran (11), ym mharagraff (b)(ii) yn lle “anghenion addysgol arbennig” rhodder “anhawster dysgu”.

*Deddf Addysg a Sgiliau 2008 (p. 25)*

- 15 (1) Mae Deddf Addysg a Sgiliau 2008 wedi ei diwygio fel a ganlyn.
- (2) Hepgorer adran 143(3) (addysg grefyddol ac addoliad crefyddol mewn ysgolion arbennig nas cynhelir).
- (3) Hepgorer adran 146 (diddymu'r gofyniad i gymeradwyo ysgolion annibynnol: Lloegr).
- (4) Hepgorer adran 148 (cymeradwyo ysgolion annibynnol: darpariaeth drosiannol).

*Learner Travel (Wales) Measure 2008 (nawm 2)*

- 14 (1) The Learner Travel (Wales) Measure 2008 is amended as follows.
- (2) In section 1 (main terms used in the Measure), in subsection (4) –
- (a) in paragraph (c), for “statements maintained under section 324 of the Education Act 1996 (c.56)” substitute “individual development plans maintained under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
- (b) for paragraph (h) substitute –
- “(h) independent special post-16 institutions within the meaning given by section 56 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 which are named in individual development plans maintained under section 14 or 19 of that Act”.
- (3) In section 3 (local authority duty to make transport arrangements), in the table –
- (a) in the first column –
- (i) for “named in a statement maintained for the child under section 324 of the Education Act 1996” the first and second time it appears substitute “or other institution named in an individual development plan maintained for the child under section 14 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
- (ii) for “named in a statement maintained for the child under section 324 of the Education Act 1996” the third and fourth time it appears substitute “or other institution named in an individual development plan maintained for the child under section 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
- (b) in the second column for “named in a statement maintained for the child under section 324 of the Education Act 1996” the first and second time it appears substitute “or other institution named in an individual development plan maintained for the child under section 14 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.
- (4) In section 14 (enforcement of travel behaviour code: withdrawal of travel arrangements), in subsection (11), in paragraph (b)(ii) for “special educational needs” substitute “learning difficulty”.

*Education and Skills Act 2008 (c.25)*

- 15 (1) The Education and Skills Act 2008 is amended as follows.
- (2) Omit section 143(3) (religious education and worship in non-maintained special schools).
- (3) Omit section 146 (abolition of requirement of approval for independent schools: England).
- (4) Omit section 148 (approval of independent schools: transitional provision).

- (5) Yn Atodlen 1 (mân ddiwygiadau a diwygiadau canlyniadol), hepgorer paragraffau 75 (a'r pennawd sy'n ei ragflaenu) a 77.

*Mesur Dysgu a Sgiliau (Cymru) 2009 (mccc 2)*

- 16 Yn yr Atodlen i Fesur Dysgu a Sgiliau (Cymru) 2009 (mân ddiwygiadau a diwygiadau canlyniadol), hepgorer paragraff 10.

*Deddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22)*

- 17 Yn adran 129 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (dyletswyddau cyffredinol Ofqual), yn is-adran (2) –
- (a) ym mharagraff (b), ar ôl “special educational needs” mewnosoder “or additional learning needs”;
  - (b) ym mharagraff (c), ar ôl “special educational needs” mewnosoder “or additional learning needs”.

*Mesur Addysg (Cymru) 2009 (mccc 7)*

- 18 (1) Mae Mesur Addysg (Cymru) 2009 wedi ei ddiwygio fel a ganlyn.
- (2) Hefgorer adrannau 17 i 19 (treialu darpariaethau ynghylch apelau a hawliadau gan blentyn).
- (3) Yn adran 24 (gorchmynion a rheoliadau) –
- (a) hepgorer is-adran (3);
  - (b) yn is-adran (4) hepgorer “18 neu”.
- (4) Hefgorer adran 25 (gorchmynion o dan adran 18: y weithdrefn).

*Deddf Cydraddoldeb 2010 (p. 15)*

- 19 (1) Mae Deddf Cydraddoldeb 2010 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 116(1)(b) (achosion addysg), yn lle “Special Educational Needs Tribunal for Wales” rhodder “Education Tribunal for Wales”.
- (3) Yn adran 136(6)(e) (baich profi), yn lle “Special Educational Needs Tribunal for Wales” rhodder “Education Tribunal for Wales”.
- (4) Yn adran 209(3) (gorchmynion a rheoliadau a wneir gan Weinidogion Cymru), ar ôl paragraff (d) mewnosoder –
- “(e) regulations under paragraph 6, 6A or 6F of Schedule 17 (tribunal procedure, case friends and capacity of parents and persons over compulsory school age).”
- (5) Yn Atodlen 17 (disgyblion anabl: gorfodi) –
- (a) ym mharagraff 1 –
    - (i) ym mharagraff (b) o'r diffiniad o “Tribunal”, yn lle “Special Educational Needs Tribunal for Wales” rhodder “Education Tribunal for Wales”;

- (5) In Schedule 1 (minor and consequential amendments), omit paragraphs 75 (and the heading that precedes it) and 77.

*Learning and Skills (Wales) Measure 2009 (nawm 2)*

- 16 In the Schedule to the Learning and Skills (Wales) Measure 2009 (minor and consequential amendments), omit paragraph 10.

*Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)*

- 17 In section 129 of the Apprenticeships, Skills, Children and Learning Act 2009 (general duties of Ofqual), in subsection (2)–
- (a) in paragraph (b), after “special educational needs” insert “or additional learning needs”;
  - (b) in paragraph (c), after “special educational needs” insert “or additional learning needs”.

*Education (Wales) Measure 2009 (nawm 7)*

- 18 (1) The Education (Wales) Measure 2009 is amended as follows.
- (2) Omit sections 17 to 19 (piloting of provisions about appeals and claims by a child).
  - (3) In section 24 (orders and regulations)–
    - (a) omit subsection (3);
    - (b) in subsection (4) omit “18 or”.
  - (4) Omit section 25 (orders under section 18: procedure).

*Equality Act 2010 (c. 15)*

- 19 (1) The Equality Act 2010 is amended as follows.
- (2) In section 116(1)(b) (education cases), for “Special Educational Needs Tribunal for Wales” substitute “Education Tribunal for Wales”.
  - (3) In section 136(6)(e) (burden of proof), for “Special Educational Needs Tribunal for Wales” substitute “Education Tribunal for Wales”.
  - (4) In section 209(3) (orders and regulations made by the Welsh Ministers), after paragraph (d) insert –
    - “(e) regulations under paragraph 6, 6A or 6F of Schedule 17 (tribunal procedure, case friends and capacity of parents and persons over compulsory school age).”
  - (5) In Schedule 17 (disabled pupils: enforcement)–
    - (a) in paragraph 1–
      - (i) in paragraph (b) of the definition of “Tribunal”, for “Special Educational Needs Tribunal for Wales” substitute “Education Tribunal for Wales”;

- (ii) yn y diffiniad o "Welsh Tribunal", yn lle "Special Educational Needs Tribunal for Wales" rhodder "Education Tribunal for Wales";
- (b) ym mhennawd paragraff 3, hepgorer "and Wales";
- (c) ym mharagraff 3 –
  - (i) ar ôl "responsible body" mewnosoder "in England";
  - (ii) hepgorer paragraff (b);
- (d) ym mharagraff 3A –
  - (i) yn is-baragraff (1), yn lle "that person ("the relevant person")" rhodder –
    - "(a) the person (including a child not over compulsory school age),  
or
    - (b) if the person is a child not over compulsory school age, the  
person's parent";
  - (ii) hepgorer is-baragraff (3);
  - (iii) yn is-baragraff (4), yn lle "6A" mewnosoder "6A(7)";
- (e) ym mharagraff 6 –
  - (i) yn is-baragraff (2)(a), hepgorer "3 or";
  - (ii) yn is-baragraff (7), yn lle "Part 4 of the Education Act 1996 (special educational needs)" rhodder "Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018";
- (f) ar ôl paragraff 6 mewnosoder –

*"Appeals from the Welsh Tribunal*

- 6AA(1) A party to any proceedings on a claim under paragraph (3A) before the Welsh Tribunal may appeal to the Upper Tribunal on any point of law arising from a decision made by the Welsh Tribunal in those proceedings.
  - (2) An appeal may be brought under sub-paragraph (1) only if, on an application made by the party concerned, the Welsh Tribunal or the Upper Tribunal has given its permission.
  - (3) Section 12 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (proceedings on appeal to the Upper Tribunal) applies in relation to appeals to the Upper Tribunal under this paragraph as it applies in relation to appeals to it under section 11 of that Act, but as if references to the First-tier Tribunal were references to the Welsh Tribunal."
- (g) yn lle paragraff 6A rhodder –
  - "6A (1) This paragraph applies to a child not over compulsory school age who –
    - (a) has the right to make a claim under paragraph 3A, and

- (ii) in the definition of “Welsh Tribunal”, for “Special Educational Needs Tribunal for Wales” substitute “Education Tribunal for Wales”;
- (b) in the heading of paragraph 3, omit “and Wales”;
- (c) in paragraph 3—
  - (i) after “responsible body” insert “in England”;
  - (ii) omit paragraph (b);
- (d) in paragraph 3A—
  - (i) in sub-paragraph (1), for “that person (“the relevant person”)” substitute—
    - “(a) the person (including a child not over compulsory school age),  
or
    - (b) if the person is a child not over compulsory school age, the  
person’s parent”;
  - (ii) omit sub-paragraph (3);
  - (iii) in sub-paragraph (4), for “6A” insert “6A(7)”;
- (e) in paragraph 6—
  - (i) in sub-paragraph (2)(a), omit “3 or”;
  - (ii) in sub-paragraph (7), for “Part 4 of the Education Act 1996 (special educational needs)” substitute “Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
- (f) after paragraph 6 insert—

*“Appeals from the Welsh Tribunal*

- 6AA(1) A party to any proceedings on a claim under paragraph (3A) before the Welsh Tribunal may appeal to the Upper Tribunal on any point of law arising from a decision made by the Welsh Tribunal in those proceedings.
  - (2) An appeal may be brought under sub-paragraph (1) only if, on an application made by the party concerned, the Welsh Tribunal or the Upper Tribunal has given its permission.
  - (3) Section 12 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (proceedings on appeal to the Upper Tribunal) applies in relation to appeals to the Upper Tribunal under this paragraph as it applies in relation to appeals to it under section 11 of that Act, but as if references to the First-tier Tribunal were references to the Welsh Tribunal.”
- (g) for paragraph 6A substitute—
    - “6A (1) This paragraph applies to a child not over compulsory school age who—
      - (a) has the right to make a claim under paragraph 3A, and

- (b) lacks the capacity to understand what it means to exercise that right.
- (2) The Education Tribunal for Wales may by order –
  - (a) appoint a person to be a case friend for a child to whom this section applies, or
  - (b) remove the person from being a case friend for the child,on the application of any person or on its own initiative, subject to provision in regulations under sub-paragraph (7).
- (3) A case friend appointed for a child under this paragraph may –
  - (a) represent and support the child, and
  - (b) take decisions and act on behalf of the child,in respect of matters arising under or by virtue of this Schedule, subject to provision in regulations under sub-paragraph (7).
- (4) Where a person is appointed to be a case friend by order of the Tribunal under this paragraph, the right of a child to make a claim under paragraph 3A is to be exercised by the case friend on behalf of the child.
- (5) A case friend appointed under this paragraph must –
  - (a) act fairly and competently,
  - (b) not have any interest adverse to that of the child,
  - (c) ensure that all steps and decisions taken by the case friend are for the benefit of the child, and
  - (d) take account of the child's views, so far as possible.
- (6) In deciding whether to appoint a person to be a case friend, or to remove a person from being a case friend, the Tribunal must have regard, in particular, to whether the person is likely to comply (in the case of appointment) or has complied (in the case of removal) with the duty in sub-paragraph (5).
- (7) The Welsh Ministers may by regulations make further provision about case friends, including (among other things) provision –
  - (a) conferring functions on the Education Tribunal for Wales;
  - (b) conferring functions on case friends;
  - (c) for procedures in relation to case friends;
  - (d) specifying the circumstances in which a person may or may not act as a case friend;
  - (e) specifying the circumstances in which a child must have a case friend;
  - (f) specifying requirements in respect of the conduct of case friends;



- (b) lacks the capacity to understand what it means to exercise that right.
- (2) The Education Tribunal for Wales may by order—
  - (a) appoint a person to be a case friend for a child to whom this section applies, or
  - (b) remove the person from being a case friend for the child, on the application of any person or on its own initiative, subject to provision in regulations under sub-paragraph (7).
- (3) A case friend appointed for a child under this paragraph may—
  - (a) represent and support the child, and
  - (b) take decisions and act on behalf of the child,in respect of matters arising under or by virtue of this Schedule, subject to provision in regulations under sub-paragraph (7).
- (4) Where a person is appointed to be a case friend by order of the Tribunal under this paragraph, the right of a child to make a claim under paragraph 3A is to be exercised by the case friend on behalf of the child.
- (5) A case friend appointed under this paragraph must—
  - (a) act fairly and competently,
  - (b) not have any interest adverse to that of the child,
  - (c) ensure that all steps and decisions taken by the case friend are for the benefit of the child, and
  - (d) take account of the child's views, so far as possible.
- (6) In deciding whether to appoint a person to be a case friend, or to remove a person from being a case friend, the Tribunal must have regard, in particular, to whether the person is likely to comply (in the case of appointment) or has complied (in the case of removal) with the duty in sub-paragraph (5).
- (7) The Welsh Ministers may by regulations make further provision about case friends, including (among other things) provision—
  - (a) conferring functions on the Education Tribunal for Wales;
  - (b) conferring functions on case friends;
  - (c) for procedures in relation to case friends;
  - (d) specifying the circumstances in which a person may or may not act as a case friend;
  - (e) specifying the circumstances in which a child must have a case friend;
  - (f) specifying requirements in respect of the conduct of case friends;

- (g) applying any enactment with or without modifications for the purpose of enabling a case friend to make decisions or act on behalf of a child in respect of matters arising under or by virtue of this Schedule.”;
- (h) ar ôl paragraff 6E mewnosoder –

*“Capacity of parents and persons over compulsory school age - Wales*

- 6F (1) The Welsh Ministers must make regulations for the purpose of a claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability in a case to which sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies where the person is a child not over compulsory school age and the parent of the person lacks capacity at the relevant time.
- (3) This sub-paragraph applies where the person is over compulsory school age and lacks capacity at the relevant time.
- (4) Regulations under sub-paragraph (1) may include provision applying any enactment with modifications, including (for example) provision for modifications to have effect despite section 27(1)(g) of the Mental Capacity Act 2005 (c. 9) (which does not permit decisions on discharging parental responsibilities in matters not relating to a child’s property to be made on a person’s behalf).
- (5) In this paragraph “the relevant time” means the time at which, under this Act, something is required or permitted to be done by or in relation to a parent or a person over compulsory school age.
- (6) The reference in this paragraph to lacking capacity is to lacking capacity within the meaning of the Mental Capacity Act 2005.
- (7) “Representative”, in relation to a parent or a person over compulsory school age, means –
- (a) a deputy appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005 to make decisions on the parent’s or person’s behalf in relation to matters within this Schedule;
  - (b) the donee of a lasting power of attorney (within the meaning of section 9 of that Act) appointed by the parent or person to make decisions on his or her behalf in relation to matters within this Schedule;
  - (c) an attorney in whom an enduring power of attorney (within the meaning of Schedule 4 to that Act) created by the parent or person is vested, where the power of attorney is registered in accordance with paragraphs 4 and 13 of that Schedule or an application for registration of the power of attorney has been made.”

- (g) applying any enactment with or without modifications for the purpose of enabling a case friend to make decisions or act on behalf of a child in respect of matters arising under or by virtue of this Schedule.”;

(h) after paragraph 6E insert –

*“Capacity of parents and persons over compulsory school age - Wales*

- 6F (1) The Welsh Ministers must make regulations for the purpose of a claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability in a case to which sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies where the person is a child not over compulsory school age and the parent of the person lacks capacity at the relevant time.
  - (3) This sub-paragraph applies where the person is over compulsory school age and lacks capacity at the relevant time.
  - (4) Regulations under sub-paragraph (1) may include provision applying any enactment with modifications, including (for example) provision for modifications to have effect despite section 27(1)(g) of the Mental Capacity Act 2005 (c. 9) (which does not permit decisions on discharging parental responsibilities in matters not relating to a child’s property to be made on a person’s behalf).
  - (5) In this paragraph “the relevant time” means the time at which, under this Act, something is required or permitted to be done by or in relation to a parent or a person over compulsory school age.
  - (6) The reference in this paragraph to lacking capacity is to lacking capacity within the meaning of the Mental Capacity Act 2005.
  - (7) “Representative”, in relation to a parent or a person over compulsory school age, means –
    - (a) a deputy appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005 to make decisions on the parent’s or person’s behalf in relation to matters within this Schedule;
    - (b) the donee of a lasting power of attorney (within the meaning of section 9 of that Act) appointed by the parent or person to make decisions on his or her behalf in relation to matters within this Schedule;
    - (c) an attorney in whom an enduring power of attorney (within the meaning of Schedule 4 to that Act) created by the parent or person is vested, where the power of attorney is registered in accordance with paragraphs 4 and 13 of that Schedule or an application for registration of the power of attorney has been made.”

- (6) O ganlyniad i'r diwygiadau a wneir gan is-baragraff (5)(d), ym Mesur Addysg (Cymru) 2009 (mccc 7), hepgorer adran 12.

*Mesur y Gymraeg (Cymru) 2011 (mccc 1)*

- 20 Yn Atodlen 6 i Fesur y Gymraeg (Cymru) 2011 (cyrff cyhoeddus etc.: safonau), yn y tabl, yng ngholofn 1, yn lle "Tribiwnlys Anghenion Addysgol Arbennig Cymru ("The Special Educational Needs Tribunal for Wales")" rhodder "Tribiwnlys Addysg Cymru ("The Education Tribunal for Wales")".

*Deddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwyr 2012 (p. 10)*

- 21 (1) Mae Deddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwyr 2012 wedi ei diwygio fel a ganlyn.
- (2) Yn Atodlen 1 (gwasanaethau cyfreithiol sifil) –
- (a) yn Rhan 1, ym mharagraff 2 –
- (i) yn is-baragraff (1)(a), yn lle "Part 4 of the Education Act 1996" rhodder "Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018";
- (ii) hepgorer is-baragraff (1)(b);
- (b) yn Rhan 3, ym mharagraff 17 –
- (i) yn lle "Special Educational Needs" rhodder "Education";
- (ii) yn lle is-baragraff (a) rhodder –
- “(a) Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018,”.

*Deddf Safonau a Threfniadaeth Ysgolion (Cymru) 2013 (dccc 1)*

- 22 (1) Mae Deddf Safonau a Threfniadaeth Ysgolion (Cymru) 2013 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 1(10) (trosolwg) yn lle "addysgol arbennig" rhodder "dysgu ychwanegol".
- (3) Yn Rhan 3, ym Mhennod 4 (darpariaeth ranbarthol ar gyfer anghenion addysgol arbennig) –
- (a) yn enw'r bennod, yn lle "ADDYSGOL ARBENNIG" rhodder "DYSGU YCHWANEGOL";
- (b) yn adran 64 (ystyr "darpariaeth ranbarthol" a "swyddogaethau addysg arbennig") –
- (i) ym mhennawd yr adran, yn lle "addysg arbennig" rhodder "anghenion dysgu ychwanegol";
- (ii) yn lle'r diffiniad o "swyddogaethau addysg arbennig" rhodder –
- “ystyr "swyddogaethau anghenion dysgu ychwanegol" ("additional learning needs functions") yw swyddogaethau o dan Ran 2 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018.”;

- (6) In consequence of the amendments made by sub-paragraph (5)(d), in the Education (Wales) Measure 2009 (nawm 7), omit section 12.

*Welsh Language (Wales) Measure 2011 (nawm 1)*

- 20 In Schedule 6 to the Welsh Language (Wales) Measure 2011 (public bodies etc.: standards), in the table, in column 1, for “The Special Educational Needs Tribunal for Wales (*“Tribiwnlys Anghenion Addysgol Arbennig Cymru”*)” substitute “The Education Tribunal for Wales (*“Tribiwnlys Addysg Cymru”*)”.

*Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*

- 21 (1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (2) In Schedule 1 (civil legal services) –
- (a) in Part 1, in paragraph 2 –
- (i) in sub-paragraph (1)(a), for “Part 4 of the Education Act 1996” substitute “Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
- (ii) omit sub-paragraph (1)(b);
- (b) in Part 3, in paragraph 17 –
- (i) for “Special Educational Needs” substitute “Education”;
- (ii) for sub-paragraph (a) substitute –
- “(a) Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”.

*School Standards and Organisation (Wales) Act 2013 (anaw 1)*

- 22 (1) The School Standards and Organisation (Wales) Act 2013 is amended as follows.
- (2) In section 1(10) (overview) for “special educational” substitute “additional learning”.
- (3) In Part 3, in Chapter 4 (regional provision for special educational needs) –
- (a) in the chapter title, for “SPECIAL EDUCATIONAL” substitute “ADDITIONAL LEARNING”;
- (b) in section 64 (meaning of “regional provision” and “special education functions”) –
- (i) in the section heading, for “special education” substitute “additional learning needs”;
- (ii) for the definition of “special education functions” substitute –
- ““additional learning needs functions” (*“swyddogaethau anghenion dysgu ychwanegol”*) means functions under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”;

- (c) yn adran 65(1) (cyfarwyddyd i ystyried gwneud darpariaeth ranbarthol) –
- (i) yn lle “swyddogaethau addysg arbennig” rhodder “swyddogaethau anghenion dysgu ychwanegol”;
  - (ii) yn lle “anghenion addysgol arbennig” rhodder “anghenion dysgu ychwanegol”.
- (d) yn adran 66(1) (cyfarwyddiadau i wneud cynigion i sicrhau darpariaeth ranbarthol), yn lle “addysg arbennig” rhodder “anghenion dysgu ychwanegol”.
- (4) Yn adran 74(5) (y ffurf weithredu), ym mharagraff (d) yn lle “datganiad o anghenion addysgol arbennig o dan Ran 4 o Ddeddf Addysg 1996” rhodder “cynllun datblygu unigol o dan Ran 2 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018”.
- (5) Yn adran 98(3) (dehongli'n gyffredinol a mynegai o ymadroddion sydd wedi eu diffinio), yn lle ““swyddogaethau addysg arbennig” (“*special education functions*”)” rhodder ““swyddogaethau anghenion dysgu ychwanegol” (“*additional learning needs functions*”)”.
- (6) Yn Atodlen 2 (newidiadau rheoleiddiedig) –
- (a) ym mharagraff 15 –
    - (i) yn y pennawd, yn lle “addysgol arbennig” rhodder “dysgu ychwanegol”;
    - (ii) yn is-baragraff (1), yn lle “addysgol arbennig” rhodder “dysgu ychwanegol”;
    - (iii) yn is-baragraff (2), yn lle “addysgol arbennig” rhodder “dysgu ychwanegol”;
  - (b) ym mharagraff 21 –
    - (i) yn y pennawd, yn lle “addysgol arbennig” rhodder “dysgu ychwanegol”;
    - (ii) yn lle “addysgol arbennig” rhodder “dysgu ychwanegol”;
  - (c) ym mharagraff 23(3), ym mharagraff (a), yn lle “hasesu o dan adran 323 o Ddeddf Addysg 1996 a disgyblion sydd â datganiadau anghenion addysgol arbennig a gedwir o dan adran 324 o'r Ddeddf honno” rhodder “penderfynu o dan Ran 2 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 a disgyblion â chynlluniau datblygu unigol a gynhelir o dan y Ddeddf honno”;
  - (d) ym mharagraff 24 –
    - (i) yn y pennawd, yn lle “addysgol arbennig” rhodder “dysgu ychwanegol”;
    - (ii) yn is-baragraff (1), yn lle “addysgol arbennig” rhodder “dysgu ychwanegol”;
    - (iii) yn is-baragraff (2), yn lle “addysgol arbennig” rhodder “dysgu ychwanegol”.

*Deddf Plant a Theuluoedd 2014 (p. 6)*

- 23 (1) Mae Deddf Plant a Theuluoedd 2014 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 35(1) (plant ag AAA mewn meithrinfeydd a gynhelir ac ysgolion prif ffrwd), ar ôl “mainstream school” mewn osoder “in England”.

- (c) in section 65(1) (direction to consider making regional provision) –
  - (i) for “special education functions” substitute “additional learning needs functions”;
  - (ii) for “special educational needs” substitute “additional learning needs”.
- (d) in section 66(1) (directions to make proposals to secure regional provision), for “special education” substitute “additional learning needs”.
- (4) In section 74(5) (form of implementation), in paragraph (d) for “a statement of special educational needs under Part 4 of the Education Act 1996” substitute “an individual development plan under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.
- (5) In section 98(3) (general interpretation and index of defined expressions), for “special education functions” (“*swyddogaethau addysg arbennig*”) substitute “additional learning needs functions” (“*swyddogaethau anghenion dysgu ychwanegol*”).
- (6) In Schedule 2 (regulated alterations) –
  - (a) in paragraph 15 –
    - (i) in the heading, for “Special educational” substitute “Additional learning”;
    - (ii) in sub-paragraph (1), for “special educational” substitute “additional learning”;
    - (iii) in sub-paragraph (2), for “special educational” substitute “additional learning”;
  - (b) in paragraph 21 –
    - (i) in the heading, for “Special educational” substitute “Additional learning”;
    - (ii) for “special educational” substitute “additional learning”;
  - (c) in paragraph 23(3), in paragraph (a), for “assessed under section 323 of the Education Act 1996 and pupils with statements of special educational needs maintained under section 324 of that Act” substitute “determined under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 and pupils with individual development plans maintained under that Act”;
  - (d) in paragraph 24 –
    - (i) in the heading, for “Special educational” substitute “Additional learning”;
    - (ii) in sub-paragraph (1), for “special educational” substitute “additional learning”;
    - (iii) in sub-paragraph (2), for “special educational” substitute “additional learning”.

*Children and Families Act 2014 (c. 6)*

- 23 (1) The Children and Families Act 2014 is amended as follows.
- (2) In section 35(1) (children with SEN in maintained nurseries and mainstream schools), after “mainstream school” insert “in England”.

- (3) Yn adran 43(1) (ysgolion a sefydliadau eraill a enwir mewn cynllun AIG: dyletswydd i dderbyn) –
- (a) ym mharagraff (a), ar ôl “school” mewnosoder “in England”;
  - (b) ym mharagraff (b), ar ôl “school” mewnosoder “in England”;
  - (c) ym mharagraff (e), ar ôl “school” mewnosoder “in England”.
- (4) Hepgorer adran 81 (datgymhwysu Pennod 1 o Ran 4 o Ddeddf Addysg 1996 mewn perthynas â phlant yn Lloegr).
- (5) Yn adran 83(6) (dehongli Rhan 3), ar ôl “Wales” mewnosoder “or who would be wholly or mainly resident in the area of a local authority in Wales were it not for provision secured for the child or young person under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.
- (6) Yn Atodlen 3 (diwygiadau canlyniadol), hepgorer paragraff 73.

*Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4)*

- 24 (1) Mae Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 3 (ystyr “plentyn” etc.), yn is-adran (3), ar ôl ““plentyn”” mewnosoder “(ac eithrio yn adran 83(2C))”.
- (3) Yn adran 182 (darparu gwasanaethau eirioli: cyfyngiadau), yn is-adran (1)(d), yn lle “332BB of Ddeddf Addysg 1996” rhodder “69 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018”.
- (4) Yn adran 196 (gorchmynion a rheoliadau), yn is-adran (6), ar ôl paragraff (c) mewnosoder –
- “(ca) y rheoliadau cyntaf a wneir o dan adran 83(2B);”.
- (5) Yn adran 197 (dehongli cyffredinol a mynegai), yn y diffiniad o “plentyn”, ar ôl “(“child”)” mewnosoder “, ac eithrio yn adran 83(2C),”.
- (6) Yn Atodlen 2 (swyddogaethau gwasanaethau cymdeithasol), yn nhabl 1 –
- (a) hepgorer y cofnod ar gyfer Deddf Addysg 1996 (adran 322 o'r Ddeddf honno);
  - (b) mewnosoder y cofnod a ganlyn yn y lle priodol –

**“Deddf Plant a Theuluoedd 2014**

Y dyletswydd i gydymffurfio â chais o dan adran 31, ond dim ond mewn cysylltiad â cheisiadau i arfer swyddogaethau gwasanaethau cymdeithasol.

Dyletswydd i gydymffurfio â chais i gydweithredu gan awdurdod lleol yn Lloegr at ddiben arfer swyddogaethau o dan Ran 3 o Ddeddf Plant a Theuluoedd 2014.”



- (3) In section 43(1) (schools and other institutions named in EHC plan: duty to admit) –
  - (a) in paragraph (a), after “school” insert “in England”;
  - (b) in paragraph (b), after “school” insert “in England”;
  - (c) in paragraph (e), after “school” insert “in England”.
- (4) Omit section 81 (disapplication of Chapter 1 of Part 4 of the Education Act 1996 in relation to children in England).
- (5) In section 83(6) (interpretation of Part 3), after “Wales” insert “or who would be wholly or mainly resident in the area of a local authority in Wales were it not for provision secured for the child or young person under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.
- (6) In Schedule 3 (consequential amendments), omit paragraph 73.

*Social Services and Well-being (Wales) Act 2014 (anaw 4)*

- 24 (1) The Social Services and Well-being (Wales) Act 2014 is amended as follows.
- (2) In section 3 (meaning of “child” etc.), in subsection (3), after ““child”” insert “(except in section 83(2C))”.
  - (3) In section 182 (provision of advocacy services: restrictions), in subsection (1)(d), for “332BB of the Education Act 1996” substitute “69 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.
  - (4) In section 196 (orders and regulations), in subsection (6), after paragraph (c) insert –
    - “(ca) the first regulations made under section 83(2B);”.
  - (5) In section 197 (general interpretation and index), in the definition of “child”, after “(“*plentyn*”)” insert “, except in section 83(2C),”.
  - (6) In Schedule 2 (social services functions), in table 1 –
    - (a) omit the entry for the Education Act 1996 (section 322 of that Act);
    - (b) insert the following entry at the appropriate place –

<p><b>“Children and Families Act 2014</b> The duty to comply with a request under section 31, but only in respect of requests to exercise social services functions.</p>	<p>Duty to comply with a request for co-operation by a local authority in England for the purpose of exercise of functions under Part 3 of the Children and Families Act 2014.”</p>
--	---

(c) mewnosoder y cofnod a ganlyn yn y lle priodol—

<p><b>“Deddf Anghenion Dysgu Ychwanegol a’r Tribiwnlys Addysg (Cymru) 2018</b></p> <p>Y ddyletswydd i gydymffurfio â chais o dan adran 65, ond dim ond mewn cysylltiad â cheisiadau i arfer swyddogaethau gwasanaethau cymdeithasol.</p>	<p>Dyletswydd i arfer swyddogaethau i ddarparu gwybodaeth neu help arall ar gais gan awdurdod lleol at ddiben arfer swyddogaethau gan yr awdurdod lleol hwnnw o dan Ran 2 o Ddeddf Anghenion Dysgu Ychwanegol a’r Tribiwnlys Addysg (Cymru) 2018.”</p>
--	--

©<sup>®</sup> Hawlfraint y Goron 2018

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Jeff James, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

(c) insert the following entry at the appropriate place –

<p><b>“Additional Learning Needs and Education Tribunal (Wales) Act 2018</b> The duty to comply with a request under section 65, but only in respect of requests to exercise social services functions.</p>	<p>Duty to exercise functions to provide information or other help on request by a local authority for the purpose of exercise of functions by the authority under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”</p>
---	--

© Crown copyright 2018

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.







Cyhoeddwyd gan TSO (Y Llyfrfa), part of Williams Lea Tag, ac ar gael o:

**Arlein**

**[www.tsoshop.co.uk](http://www.tsoshop.co.uk)**

**Post, Ffôn, Ffacs ac E-bost**

TSO

Blwch Post 29, Norwich, NR3 1GN

Archebionf ffôn/ Ymholiadau cyffredinol 0333 202 5070

Archebion ffacs: 0333 202 5080

E-bost: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Ffôn Testun: 0333 202 5077

**TSO@Blackwell ac Asiantau Achrededig eraill**

Published by TSO (The Stationery Office), part of Williams Lea Tag, and available from:

**Online**

**[www.tsoshop.co.uk](http://www.tsoshop.co.uk)**

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0333 202 5070

Fax orders: 0333 202 5080

E-mail: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0333 202 5077

**TSO@Blackwell and other Accredited Agents**

ISBN 978-0-348-11327-3



9 780348 113273