



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

2018 anaw 2

## PART 2

### ADDITIONAL LEARNING NEEDS

#### CHAPTER 2

##### INDIVIDUAL DEVELOPMENT PLANS

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

#### **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,

*Status: Point in time view as at 01/09/2022. This version of this provision has been superseded.*

*Changes to legislation: Additional Learning Needs and Education Tribunal (Wales) Act 2018, Section 12 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 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) 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.

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

- C1** S. 12(2)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(c)**

#### Commencement Information

- I1** S. 12 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), arts. 3, 4 (as amended by [S.I. 2021/938](#), art. 2(3))

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- I2** S. 12 in force at 1.9.2021 for specified purposes by S.I. 2021/373, **arts. 6, 7** (as amended by S.I. 2021/938, **art. 2(4)(5)**)
- I3** S. 12 in force at 1.1.2022 for specified purposes by S.I. 2021/1245, **arts. 3(b), 4** (with **art. 1(4)**)
- I4** S. 12 in force at 1.1.2022 for specified purposes by S.I. 2021/1243, **art. 3(b)** (with **arts. 4-23**) (as amended by S.I. 2021/1428, **art. 2**; (10.6.2022) by S.I. 2022/663, **art. 2** and (21.8.2023) by S.I. 2023/932, **art. 2**)
- I5** S. 12 in force at 1.1.2022 for specified purposes by S.I. 2021/1244, **art. 3(b)** (with **arts. 4-21**) (as amended by S.I. 2021/1428, **art. 3**; (10.6.2022) by S.I. 2022/663, **art. 3** and (21.8.2023) by S.I. 2023/932, **art. 3**)
- I6** S. 12 in force at 1.9.2022 for specified purposes by S.I. 2022/896, **art. 3(b)** (with **arts. 4-22**) (as amended (21.8.2023) by S.I. 2023/932, **art. 5**)
- I7** S. 12 in force at 1.9.2022 for specified purposes by S.I. 2022/898, **arts. 2(b), 3**
- I8** S. 12 in force at 1.9.2022 for specified purposes by S.I. 2022/893, **art. 4** (with **art. 1(2)**)
- I9** S. 12 in force at 1.9.2022 for specified purposes by S.I. 2022/894, **art. 3(b)**
- I10** S. 12 in force at 1.9.2022 for specified purposes by S.I. 2022/895, **arts. 3(b), 4**
- I11** S. 12 in force at 1.9.2022 for specified purposes by S.I. 2022/897, **art. 3(b)** (with **arts. 1(8), 4-21**) (as amended (21.8.2023) by S.I. 2023/932, **art. 6**)
- I12** S. 12 in force at 1.9.2022 for specified purposes by S.I. 2022/891, **art. 3(b)** (with **arts. 4-25**) (as amended (21.8.2023) by S.I. 2023/932, **art. 4**)
- I13** S. 12 in force at 1.9.2022 for specified purposes by S.I. 2022/892, **art. 3(b)** (with **arts. 2, 4-18**)

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