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*Changes to legislation: Additional Learning Needs and Education Tribunal (Wales) Act 2018, Cross Heading: Additional learning provision and NHS bodies is up to date with all changes known to be in force on or before 31 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)*



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

2018 anaw 2

## PART 2

### ADDITIONAL LEARNING NEEDS

#### CHAPTER 2

##### INDIVIDUAL DEVELOPMENT PLANS

*Additional learning provision and NHS bodies*

VALID FROM 01/09/2021

#### **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,

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- (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 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

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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) 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.

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#### **Commencement Information**

**II** S. 21 in force at 2.11.2020 for specified purposes by S.I. 2020/1182, reg. 3(1)(b)

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