



Additional Learning Needs and Education Tribunal (Wales) Act 2018

2018 anaw 2

PART 2 **E+W**

ADDITIONAL LEARNING NEEDS

CHAPTER 2 **E+W**

INDIVIDUAL DEVELOPMENT PLANS

Local authority reconsideration of governing body decisions and plans

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

- (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) 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.

Changes to legislation: Additional Learning Needs and Education Tribunal (Wales) Act 2018, Section 28 is up to date with all changes known to be in force on or before 17 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) View outstanding changes

- (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).

Modifications etc. (not altering text)

- C1** S. 28(2)(a) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(n)**
- C2** S. 28(2)(b) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(j)**
- C3** S. 28(4)(5) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(j)**
- C4** S. 28(4)(5) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(n)**
- C5** S. 28(7) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **37(1)(n)**
- C6** S. 28(7) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **35(1)(j)**

Commencement Information

- I1** S. 28 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), arts. 3, 4 (as amended by [S.I. 2021/735](#), art. 2(2)(a) and [S.I. 2021/938](#), art. 2(3))
- I2** S. 28 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), arts. 6, 7 (as amended by [S.I. 2021/735](#), art. 2(3)(a) and [S.I. 2021/938](#), art. 2(4)(5))
- I3** S. 28 in force at 1.1.2022 for specified purposes by [S.I. 2021/1243](#), art. 3(c) (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)
- I4** S. 28 in force at 1.1.2022 for specified purposes by [S.I. 2021/1244](#), art. 3(c) (with arts. 4-21) (as amended by [S.I. 2021/1428](#), art. 3; and (10.6.2022) by [S.I. 2022/663](#), art. 3; and (21.8.2023) by [S.I. 2023/932](#), art. 3)
- I5** S. 28 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), arts. 3(c), 4 (with art. 1(4))
- I6** S. 28 in force at 1.9.2022 for specified purposes by [S.I. 2022/894](#), art. 3(c)

Changes to legislation: Additional Learning Needs and Education Tribunal (Wales) Act 2018, Section 28 is up to date with all changes known to be in force on or before 17 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) [View outstanding changes](#)

- I7** S. 28 in force at 1.9.2022 for specified purposes by S.I. 2022/891, **art. 3(c)** (with arts. 4-25) (as amended (21.8.2023) by S.I. 2023/932, **art. 4**)
- I8** S. 28 in force at 1.9.2022 for specified purposes by S.I. 2022/898, **arts. 2(c), 3**
- I9** S. 28 in force at 1.9.2022 for specified purposes by S.I. 2022/896, **art. 3(c)** (with arts. 4-22) (as amended (21.8.2023) by S.I. 2023/932, **art. 5**)
- I10** S. 28 in force at 1.9.2022 for specified purposes by S.I. 2022/897, **art. 3(c)** (with arts. 1(8), 4-21) (as amended (21.8.2023) by S.I. 2023/932, **art. 6**)
- I11** S. 28 in force at 1.9.2022 for specified purposes by S.I. 2022/895, **arts. 3(c), 4**
- I12** S. 28 in force at 1.9.2022 for specified purposes by S.I. 2022/892, **art. 3(c)** (with arts. 2, 4-18)
- I13** S. 28 in force at 1.9.2022 for specified purposes by S.I. 2022/893, **art. 4** (with art. 1(2))

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 28 coming into force by [S.I. 2022/893 art. 2\(c\)](#)
- specified provision(s) coming into force by [S.I. 2021/381 art. 23](#) (This commencement not applied to legislation.gov.uk. S.I. 2021/381 revoked (12.8.2021) by S.I. 2021/938, art. 3)
- specified provision(s) coming into force by [S.I. 2021/383 art. 23](#) (This commencement not applied to legislation.gov.uk. S.I. 2021/383 revoked (12.8.2021) by S.I. 2021/938, art. 4)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(3)(ca)(cb) inserted by [2022 asc 1 Sch. 4 para. 39\(2\)](#)
- s. 5(1)(da) inserted by [2022 asc 1 Sch. 4 para. 39\(3\)](#)
- s. 65(4)(da)(db) inserted by [2022 asc 1 Sch. 4 para. 39\(5\)](#)
- Sch. 1 para. 4(32)(a)(i)para. 4(32)(a)(ii)(b) coming into force by [S.I. 2022/893 art. 2\(o\)\(xi\)](#)