
WELSH STATUTORY INSTRUMENTS

2021 No. 401

The Additional Learning Needs (Wales) Regulations 2021

PART 2

INDIVIDUAL DEVELOPMENT PLANS

Detained persons

Necessity of individual development plan for detained person upon release

18.—(1) This regulation applies for the purpose of a home authority's decision under section 40(2)(b) of the 2018 Act.

(2) It is necessary to prepare an individual development plan for a detained person except where—

- (a) it is likely that the detained person will have attained the age of 25 before being released from detention, or
- (b) in the case of a detained young person, it is unlikely that the person will have reasonable needs for education or training when released.

(3) For the purposes of paragraph (2)(b), a young person has reasonable needs for education or training in each of the following circumstances—

- (a) the young person is registered as a pupil or enrolled as a student at a maintained school, an institution in the further education sector or an Academy (whether the maintained school or institution in the further education sector is in Wales or England);
- (b) the young person has reasonable needs for education or training under regulation 9(1);
- (c) a local authority has determined under regulation 9(2) that the young person has reasonable needs for education or training.

(4) Where the home authority decides that it will not be necessary for an individual development plan to be maintained for the detained person when that person is released from detention, the home authority must make that decision and give the notification of it under section 40(4) of the 2018 Act promptly and in any event before the end of the period of 12 weeks beginning with the day after the day on which—

- (a) in the case of a child, it was brought to the attention of, or otherwise appeared to, the home authority that the child may have additional learning needs;
- (b) in the case of a young person, the young person consented to the decision being made on whether the young person has additional learning needs.

(5) The home authority need not comply with the requirement to make that decision and give the notification before the end of the 12 week period if it is impractical to do so due to circumstances beyond its control.

(6) When notifying a detained person and if the detained person is a child, the child's parent, under section 40(4) of the 2018 Act that an individual development plan will not be necessary, the home authority must also give—

- (a) contact details for the home authority;
- (b) information about how to access the home authority’s arrangements under section 9 of the 2018 Act for providing people with information and advice about additional learning needs and the system for which provision is made by Part 2 of that Act;
- (c) details of the home authority’s arrangements for the avoidance and resolution of disagreements under section 68 of the 2018 Act;
- (d) details of the home authority’s arrangements for the provision of independent advocacy services under section 69 of the 2018 Act;
- (e) information about the right to appeal to the Education Tribunal under section 72 of the 2018 Act against the decision.

Amendments to section 44 of the 2018 Act

19.—(1) Section 44 of the 2018 Act (certain provisions of Part 2 not to apply to children and young persons in detention) is amended as follows—

- (a) in subsection (1), after paragraph (c) insert—
 - “(d) an NHS body.”;
- (b) in subsection (2), after paragraph (d) insert—
 - “(da) section 20(5)(a) and (c) (NHS body’s duty to secure a treatment or service and to take all reasonable steps to secure it in Welsh);”.