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OFFERYNNAU STATUDOL CYMRU

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**2021 Rhif 401 (Cy. 130)**

**ADDYSG, CYMRU**

Rheoliadau Anghenion Dysgu Ychwanegol (Cymru) 2021

*Gwnaed*

*am 1.40 p.m. ar 24 Mawrth 2021*

*Yn dod i rym*

*1 Medi 2021*

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WELSH STATUTORY INSTRUMENTS

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**2021 No. 401 (W. 130)**

**EDUCATION, WALES**

The Additional Learning Needs (Wales) Regulations 2021

*Made*

*at 1.40 p.m. on 24 March 2021*

*Coming into force*

*1 September 2021*

**£11.50**





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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**ADDYSG, CYMRU**

**EDUCATION, WALES**

**Rheoliadau Anghenion Dysgu  
Ychwanegol (Cymru) 2021**

**The Additional Learning Needs  
(Wales) Regulations 2021**

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

*(This note is not part of the Regulations)*

Mae Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 ("Deddf 2018") yn sefydlu'r system yng Nghymru ar gyfer diwallu anghenion dysgu ychwanegol plant a phobl ifanc. Mae'r Rheoliadau hyn yn ychwanegu at y system y darperir ar ei chyfer yn Neddf 2018.

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 ("the 2018 Act") establishes the system in Wales for meeting the additional learning needs of children and young people. These Regulations supplement the system provided for in the 2018 Act.

Mae Rhan 1 o'r Rheoliadau hyn yn cynnwys darpariaeth ynghylch dehongli termau a ddefnyddir yn y Rheoliadau drwyddynt draw. Hefyd, mae darpariaethau dehongli penodol mewn rheoliadau eraill, pan fo'r geiriau a'r ymadroddion a ddefnyddir yn cael eu defnyddio at ddibenion rheoliadau sy'n ymdrin â mater penodol yn unig (er enghraifft, rheoliad 34 yn Rhan 4). Mae rheoliad 3 yn gwneud darpariaeth ynghylch hysbysu rhywun neu roi dogfen i rhywun o dan y Rheoliadau hyn.

Part 1 of these Regulations includes provision on the interpretation of terms used throughout the Regulations. There are also specific interpretation provisions in other regulations, where the words and expressions used are used only for the purposes of regulations dealing with a particular matter (for example, regulation 34 in Part 4). Regulation 3 makes provision about notifying someone or giving someone a document under these Regulations.

Mae Rhan 2 o'r Rheoliadau hyn yn ymdrin ag ystod o faterion sy'n gysylltiedig â chynlluniau datblygu unigol, ac mae'n ychwanegu at ddarpariaethau Pennod 1 o Ran 2 o Ddeddf 2018. Yn benodol, mae rheoliadau 6 i 10 yn gwneud darpariaeth ynghylch penderfyniadau awdurdodau lleol o dan adrannau 14 ac 31 o Ddeddf 2018 ynghylch yr angen i gynnal cynlluniau datblygu unigol ar gyfer pobl ifanc nad ydynt mewn ysgol a gynhelir yng Nghymru na sefydliad yn y sector addysg bellach yng Nghymru. Mae darpariaethau hefyd sy'n gysylltiedig â throsglwyddo cyfrifoldeb am gynllun datblygu unigol o un corff i un arall. Mae rheoliadau 20 i 25 yn cymhwyso, gydag addasiadau, ddyletswyddau yn Neddf 2018 mewn perthynas â phlant a phobl ifanc sy'n cael eu cadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf Iechyd Meddwl 1983.

Part 2 of these Regulations deals with a range of matters related to individual development plans and supplements the provisions of Chapter 1 of Part 2 of the 2018 Act. In particular, regulations 6 to 10 make provision about local authority decisions under sections 14 and 31 of the 2018 Act about the necessity of maintaining individual development plans for young people who are not at a maintained school in Wales or an institution in the further education sector in Wales. There are also provisions related to a transfer of responsibility for an individual development plan from one body to another. Regulations 20 to 25 apply, with modifications, duties in the 2018 Act in relation to children and young people who are detained in hospital under Part 3 of the Mental Health Act 1983.

Mae Rhan 3 o'r Rheoliadau hyn yn gwneud darpariaeth ynghylch swyddogaethau atodol ym Mhennod 3 o Ran 2 o Ddeddf 2018 a swyddogaethau yn adrannau 68 a 69 o'r Ddeddf honno. Mae'n cynnwys darpariaethau sy'n ymwneud â chydlynwyr anghenion dysgu ychwanegol. Mae adran 60 o Ddeddf 2018 yn ei gwneud yn ofynnol i gyrff llywodraethu ysgolion a gynhelir (ac eithrio ysgolion arbennig) a sefydliadau addysg bellach yng Nghymru ddynodi person (neu bersonau) yn gydlynnydd anghenion dysgu ychwanegol i fod yn gyfrifol am gydlynu darpariaeth ddysgu ychwanegol ar gyfer disgyblion neu fyfyrwyr ag anghenion dysgu ychwanegol. Mae rheoliadau 27 ac 28 yn nodi'r cymwysterau neu'r profiad y mae rhaid i gydlynwyr anghenion dysgu ychwanegol feddu arnynt neu arno ac mae rheoliadau 29 a 30 yn rhoi swyddogaethau i gydlynwyr anghenion dysgu ychwanegol sy'n ymwneud â'r ddarpariaeth ddysgu ychwanegol ar gyfer disgyblion neu fyfyrwyr ag anghenion dysgu ychwanegol. Nid yw'r Rheoliadau hyn yn effeithio ar allu'r corff llywodraethu i roi cyfrifoldebau pellach i'r cydlynnydd anghenion dysgu ychwanegol. Mae'r darpariaethau hyn yn disodli'r darpariaethau yn Rheoliadau Cydlynnydd Anghenion Dysgu Ychwanegol (Cymru) 2020, sydd wedi eu dirymu gan reoliad 1.

Mae Rhan 4 o'r Rheoliadau hyn yn gwneud darpariaeth ynghylch rhieni a phobl ifanc nad oes ganddynt alluedd. Mae'n ymdrin â phobl ifanc, a rhieni plant, nad oes ganddynt alluedd meddyliol i wneud y penderfyniadau neu i gymryd y camau gweithredu sy'n ofynnol. At ddibenion Deddf 2018, nid oes gan berson alluedd pan nad oes ganddo alluedd o fewn ystyr "lack capacity" yn Neddf Galluedd Meddyliol 2005, hynny yw, pan nad oes ganddo alluedd meddyliol, nid galluedd cyfreithiol. Mae'r Rheoliadau yn darparu, pan na fo gan riant plentyn alluedd, fod pob cyfeiriad at riant y plentyn i'w ddarllen fel pe bai'n gyfeiriad at gynrychiolydd i'r rhiant. Mae'r Rheoliadau hefyd yn darparu, pan na fo gan berson ifanc alluedd, fod y cyfeiriadau at y person ifanc i'w darllen fel pe baent yn gyfeiriadau at gynrychiolydd y person ifanc, neu at riant y person ifanc.

Mae Rhan 4 yn ei gwneud yn glir bod y darpariaethau sy'n ymwneud â galluedd meddyliol yn cael effaith er gwaethaf adran 27(1)(g) o Ddeddf Galluedd Meddyliol 2005.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ ac ar wefan Llywodraeth Cymru ar [www.llyw.cymru](http://www.llyw.cymru).

Part 3 of these Regulations makes provision about supplementary functions in Chapter 3 of Part 2 of the 2018 Act and functions in sections 68 and 69 of that Act. It includes provisions relating to additional learning needs co-ordinators. Section 60 of the 2018 Act requires governing bodies of maintained schools (except special schools) and further education institutions in Wales to designate a person (or persons) as the additional learning needs co-ordinator to be responsible for co-ordinating additional learning provision for pupils or students with additional learning needs. Regulations 27 and 28 set out the qualifications or experience that additional learning needs co-ordinators must have and regulations 29 and 30 confer functions on additional learning needs co-ordinators relating to the additional learning provision for pupils or students with additional learning needs. These Regulations do not affect the governing body's ability to confer further responsibilities upon the additional learning needs co-ordinator. These provisions replace provisions of the Additional Learning Needs Co-ordinator (Wales) Regulations 2020, which are revoked by regulation 1.

Part 4 of these Regulations makes provision about parents and young people lacking capacity. It deals with young people, and parents of children, who lack mental capacity to take the decisions or actions required. For the purposes of the 2018 Act, a person lacks capacity when they lack capacity within the meaning of the Mental Capacity Act 2005, that is, when they lack mental, not legal capacity. The Regulations provide that where a child's parent lacks capacity all references to the child's parent are to be read as references to a representative of the parent. The Regulations also provide that where a young person lacks capacity, the references to the young person are to be read as references to the young person's representative, or to the young person's parent.

Part 4 makes it clear that the provisions concerning mental capacity have effect in spite of section 27(1)(g) of the Mental Capacity Act 2005.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government at Cathays Park, Cardiff CF10 3NQ and on the Welsh Government website at [www.gov.wales](http://www.gov.wales).

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*Gwnaed am 1.40 p.m. ar 24 Mawrth 2021*

*Made at 1.40 p.m. on 24 March 2021*

*Yn dod i rym 1 Medi 2021*

*Coming into force 1 September 2021*

**CYNNWYS**

**CONTENTS**

**RHAN 1  
CYFFREDINOL**

**PART 1  
GENERAL**

1. Enwi, cychwyn a dirymu
2. Dehongli cyffredinol
3. Rhoi hysbysiad etc. o dan y Rheoliadau hyn
4. Rhoi hysbysiad etc. o dan Ran 2 o Ddeddf 2018: diwygio adran 88

1. Title, commencement and revocation
2. General interpretation
3. Giving notice etc. under these Regulations
4. Giving notice etc. under Part 2 of the 2018 Act: amendment of section 88

**RHAN 2**

**PART 2**

**CYNLLUNIAU DATBLYGU UNIGOL**

**INDIVIDUAL DEVELOPMENT PLANS**

5. Categoriâu o blant sy'n derbyn gofal a ragnodir o dan adran 15 o Ddeddf 2018
6. Dehongli rheoliadau 6 i 9 ac Atodlen 1
7. Rhaglen astudio bosibl
8. Yr angen am gynllun: rhaglenni astudio mewn ysgolion a gynhelir a sefydliadau addysg bellach yng Nghymru a sefydliadau penodol yn Lloegr
9. Achosion eraill: anghenion rhesymol am addysg neu hyfforddiant a'r angen am gynllun datblygu unigol
10. Hysbysiad o benderfyniad o dan adran 14(1)(c)(ii) o Ddeddf 2018 nad oes angen cynllun

5. Categories of looked after child prescribed under section 15 of the 2018 Act
6. Interpretation of regulations 6 to 9 and Schedule 1
7. Potential programme of study
8. Necessity of a plan: programmes of study at maintained schools and further education institutions in Wales and certain institutions in England
9. Other cases: reasonable needs for education or training and necessity of an individual development plan
10. Notification of decision under section 14(1)(c)(ii) of the 2018 Act that plan not necessary

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| <p>11. Terfyn amser i gorff GIG ymateb i atgyfeiriad adran 20</p> <p>12. Terfyn amser ar gyfer gofyn i benderfyniad i beidio â chynnal cynllun gael ei ailystyried</p> <p>13. Cais awdurdod lleol i drosglwyddo cynllun i gorff llywodraethu sefydliad addysg bellach</p> <p>14. Atgyfeiriad awdurdod lleol at Weinidogion Cymru er mwyn penderfynu a ddylai corff llywodraethu sefydliad addysg bellach gynnal cynllun</p> <p>15. Rhoi copïau o gynlluniau datblygu unigol mewn sefyllfaoedd trosglwyddo</p> <p>16. Cyfnodau adolygu pan fo plentyn wedi dod yn blentyn sy'n derbyn gofal neu pan fo plentyn neu berson ifanc wedi peidio â bod yn blentyn neu berson ifanc sy'n derbyn gofal</p> <p>17. Sicrhau darpariaeth arall pan fo cyfrifoldeb am gynllun yn cael ei drosglwyddo</p> <p>18. Yr angen am gynllun datblygu unigol ar gyfer person sy'n cael ei gadw'n gaeth ar ôl ei ryddhau</p> <p>19. Diwygiadau i adran 44 o Ddeddf 2018</p> <p>20. Dehongli rheoliadau 20 i 25 ac Atodlen 2</p> <p>21. Awdurdod lleol perthnasol</p> <p>22. Plentyn neu berson ifanc a chanddo gynllun datblygu unigol cyn cael ei gadw'n gaeth mewn ysbyty</p> <p>23. Plentyn neu berson ifanc heb gynllun datblygu unigol cyn cael ei gadw'n gaeth mewn ysbyty</p> <p>24. Rhyddhau plentyn neu berson ifanc sy'n cael ei gadw'n gaeth mewn ysbyty</p> <p>25. Plentyn neu berson ifanc yn trosglwyddo o gael ei gadw'n gaeth mewn ysbyty i gael ei gadw'n gaeth mewn llety ieuencid perthnasol</p> | <p>11. Time limit for NHS body responding to section 20 referral</p> <p>12. Time limit for requesting reconsideration of decision to cease to maintain plan</p> <p>13. Local authority request to transfer plan to governing body of further education institution</p> <p>14. Local authority referral to the Welsh Ministers to determine whether governing body of further education institution should maintain plan</p> <p>15. Giving copies of individual development plans in transfer situations</p> <p>16. Review periods where child has become looked after or child or young person has ceased to be looked after</p> <p>17. Securing other provision where transfer of responsibility for plan</p> <p>18. Necessity of individual development plan for detained person upon release</p> <p>19. Amendments to section 44 of the 2018 Act</p> <p>20. Interpretation of regulations 20 to 25 and Schedule 2</p> <p>21. Relevant local authority</p> <p>22. Child or young person with individual development plan prior to detention in hospital</p> <p>23. Child or young person without individual development plan prior to detention in hospital</p> <p>24. Release of child or young person detained in hospital</p> <p>25. Child or young person transfers from hospital detention to detention in relevant youth accommodation</p> |
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### RHAN 3

#### SWYDDOGAETHAU ATODOL

26. Dehongli rheoliadau 26 i 30
27. Cymhwyster neu brofiad rhagnodedig cydlynedd anghenion dysgu ychwanegol mewn ysgol
28. Cymhwyster rhagnodedig cydlynedd anghenion dysgu ychwanegol mewn sefydliad yn y sector addysg bellach

### PART 3

#### SUPPLEMENTARY FUNCTIONS

26. Interpretation of regulations 26 to 30
27. Prescribed qualification or experience of an additional learning needs co-ordinator at a school
28. Prescribed qualification of an additional learning needs co-ordinator at an institution in the further education sector

29. Swyddogaethau cydlynnydd anghenion dysgu ychwanegol mewn ysgol
30. Swyddogaethau cydlynnydd anghenion dysgu ychwanegol mewn sefydliad yn y sector addysg bellach
31. Terfyn amser ar gyfer cydymffurfio â chais awdurdod lleol am wybodaeth neu help arall
32. Darparu nwyddau neu wasanaethau mewn perthynas â darpariaeth ddysgu ychwanegol
33. Diwygio adran 68 o Ddeddf 2018

#### RHAN 4

#### RHIENI A PHOBL IFANC NAD OES GANDDYNT ALLUEDD

34. Dehongli'r Rhan hon
35. Pan nad oes gan riant plentyn alluedd
36. Pan nad oes gan riant i blentyn sy'n berson sy'n cael ei gadw'n gaeth alluedd
37. Pan nad oes gan berson ifanc alluedd
38. Pan nad oes gan berson sy'n cael ei gadw'n gaeth sy'n berson ifanc alluedd
39. Trefniadau ar gyfer osgoi a datrys anghytundebau o dan adran 68 o Ddeddf 2018
40. Gwasanaethau eirioli annibynnol o dan adran 69 o Ddeddf 2018
41. Cynrychiolaeth mewn apelau
42. Deddf Galluedd Meddyliol 2005

29. Additional learning needs co-ordinator functions at a school
30. Additional learning needs co-ordinator functions at an institution in the further education sector
31. Time limit for complying with local authority request for information or other help
32. Provision of goods or services in relation to additional learning provision
33. Amendment to section 68 of the 2018 Act

#### PART 4

#### PARENTS AND YOUNG PEOPLE LACKING CAPACITY

34. Interpretation of this Part
35. When a child's parent lacks capacity
36. When a parent of a child who is a detained person lacks capacity
37. When a young person lacks capacity
38. When a detained person who is a young person lacks capacity
39. Arrangements for avoidance and resolution of disagreements under section 68 of the 2018 Act
40. Independent advocacy services under section 69 of the 2018 Act
41. Representation in appeals
42. Mental Capacity Act 2005

ATODLEN 1 — ANGHENION  
RHEBYMOL AM  
ADDYSG NEU  
HYFFORDDIANT

ATODLEN 2 — CYMHWYSO  
GYDAG  
ADDASIADAU  
DDEDDF 2018  
MEWN  
PERTHYNAS Â  
PERSONAU SY'N  
CAEL EU CADW'N  
GAETH MEWN  
YSBYTY O DAN  
RAN 3 O DDEDDF  
1983

SCHEDULE 1 — REASONABLE NEEDS  
FOR EDUCATION OR  
TRAINING

SCHEDULE 2 — APPLICATION WITH  
MODIFICATIONS OF  
THE 2018 ACT IN  
RELATION TO  
PERSONS DETAINED  
IN HOSPITAL UNDER  
PART 3 OF THE 1983  
ACT

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan adrannau 15(2), 21(10), 32(1)(b), 36(3), 37(1)(a) a (b), 45, 46, 60(4), 65(5), 67, 82, 83, 97 a 98(2) o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018(1).

Yn unol ag adran 98(3) o'r Ddeddf honno, gosodwyd drafft o'r Rheoliadau hyn gerbron Senedd Cymru ac fe'i cymeradwywyd ganddi drwy benderfyniad(2).

## RHAN 1 CYFFREDINOL

### Enwi, cychwyn a dirymu

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Anghenion Dysgu Ychwanegol (Cymru) 2021.

(2) Deuant i rym ar 1 Medi 2021.

(3) Mae Rheoliadau Cydlynedd Anghenion Dysgu Ychwanegol (Cymru) 2020(3) wedi eu dirymu.

### Dehongli cyffredinol

2.—(1) Yn y Rheoliadau hyn, ystyr "Deddf 2018" yw Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018.

(2) Mae i gyfeiriad yn y Rheoliadau hyn at berson sy'n ddarostyngedig i orchymyn cadw (sut bynnag y'i mynegir) yr ystyr a roddir i'r ymadrodd Saesneg cyfatebol hwnnw gan adran 562(1A)(a), (2) a (3) o Ddeddf Addysg 1996(4).

(3) Mae i'r geiriau a'r ymadroddion a ddefnyddir yn y Rheoliadau hyn yr un ystyr ag sydd iddynt yn Neddf 2018 ac eithrio i'r graddau yr ymddengys bwriad i'r gwrthwyneb.

(4) Pan fo'r Rheoliadau hyn yn darparu ar gyfer cyfnod y mae'n ofynnol gwneud rhywbeth ynddo, neu cyn ei ddiwedd, ac na fo diwrnod olaf y cyfnod hwnnw yn ddiwrnod gwaith, mae'r cyfnod yn cael ei estyn i gynnwys y diwrnod gwaith canlynol.

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 15(2), 21(10), 32(1)(b), 36(3), 37(1)(a) and (b), 45, 46, 60(4), 65(5), 67, 82, 83, 97 and 98(2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018(1).

In accordance with section 98(3) of that Act, a draft of these Regulations was laid before, and approved by a resolution of, Senedd Cymru(2).

## PART 1 GENERAL

### Title, commencement and revocation

1.—(1) The title of these Regulations is the Additional Learning Needs (Wales) Regulations 2021.

(2) They come into force on 1 September 2021.

(3) The Additional Learning Needs Co-ordinator (Wales) Regulations 2020(3) are revoked.

### General interpretation

2.—(1) In these Regulations, "the 2018 Act" means the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

(2) A reference in these Regulations to a person being subject to a detention order (however expressed) has the meaning given to that expression by section 562(1A)(a), (2) and (3) of the Education Act 1996(4).

(3) Words and expressions used in these Regulations have the same meaning as they have in the 2018 Act except so far as a contrary intention appears.

(4) Where these Regulations provide for a period within which, or before the end of which, something is required to be done and the last day of that period is not a working day, the period is extended to include the following working day.

(1) 2018 decc 2. Gweler adran 99(1) am y diffiniadau o "rhagnodedig" ac "a ragnodir" a "rheoliadau".

(2) Mae'r cyfeiriadau yn adran 98(3) at Gynulliad Cenedlaethol Cymru bellach yn cael effaith fel cyfeiriadau at Senedd Cymru yn rhinwedd adran 150A(2) o Ddeddf Llywodraeth Cymru 2006 (p. 32).

(3) O.S. 2020/1351 (Cy. 299).

(4) 1996 p. 56. Mae'r is-adrannau hyn wedi eu diwygio gan Ddeddf Cyfiawnder Troseddol a Mewnffudo 2008 (p. 4), Atodlen 4, Rhan 1, paragraff 47, Deddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22), adran 49 ac O.S. 2016/413 (Cy. 131), rheoliadau 153 a 157.

(1) 2018 anaw 2. See section 99(1) for the definitions of "prescribed" and "regulations".

(2) The references in section 98(3) to the National Assembly for Wales now have effect as references to Senedd Cymru by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

(3) S.I. 2020/1351 (W. 299).

(4) 1996 c. 56. These subsections have been amended by the Criminal Justice and Immigration Act 2008 (c. 4), Schedule 4, Part 1, paragraph 47, the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 49 and S.I. 2016/413 (W. 131), regulations 153 and 157.



### **Rhoi hysbysiad etc. o dan y Rheoliadau hyn**

3.—(1) Mae paragraff (2) yn gymwys pan fo darpariaeth yn y Rheoliadau hyn yn ei gwneud yn ofynnol (ar ba delerau bynnag) i gorff llywodraethu, awdurdod lleol neu Weinidogion Cymru, neu'n awdurdodi (ar ba delerau bynnag) corff llywodraethu, awdurdod lleol neu Weinidogion Cymru i—

- (a) hysbysu person am rywbeth, neu
- (b) rhoi dogfen i berson (gan gynnwys hysbysiad neu gopi o ddogfen).

(2) Mae adran 88 o Ddeddf 2018 (rhoi hysbysiad etc. o dan y Rhan hon) yn gymwys i'r ddarpariaeth—

- (a) fel pe bai'n ddarpariaeth yn Rhan 2 o Ddeddf 2018,
- (b) fel pe bai'r cyfeiriadau yn yr adran honno at gorff llywodraethu neu awdurdod lleol yn gyfeiriadau at gorff llywodraethu, awdurdod lleol neu Weinidogion Cymru, ac
- (c) fel pe bai'r cyfeiriad yn adran 88(4) at adran 7 o Ddeddf Dehongli 1978(1) (cyfeiriadau at gyflwyno drwy'r post) yn gyfeiriad at adran 13 o Ddeddf Deddfwriaeth (Cymru) 2019(2) (cyflwyno dogfennau drwy'r post neu'n electronig).

### **Rhoi hysbysiad etc. o dan Ran 2 o Ddeddf 2018: diwygio adran 88**

4. Ar ddiwedd adran 88 o Ddeddf 2018 mewnosoder—

“(6) Mae hysbysiad neu ddogfen a roddir i berson drwy ei anfon neu ei hanfon yn electronig yn unol â'r adran hon i gael ei drin neu ei thrin at ddibenion y Rhan hon fel pe bai wedi ei roi neu ei rhoi, oni phrofir i'r gwrthwyneb, ar y diwrnod yr anfonwyd y cyfathrebiad electronig.”

## **RHAN 2**

### **CYNLLUNIAU DATBLYGU UNIGOL**

#### **Categoriâu o blant sy'n derbyn gofal a ragnodir o dan adran 15 o Ddeddf 2018**

5. Nid yw plentyn i'w drin fel pe bai'n derbyn gofal at ddibenion Deddf 2018 os nad yw'n ofynnol, gan neu o dan adran 83 o Ddeddf Gwasanaethau Cymdeithasol

(1) 1978 p. 30.

(2) 2019 dccc 4. Mae adran 13 wedi ei diwygio gan Ddeddf Senedd ac Etholiadau (Cymru) 2020 (dccc 1), Atodlen 1, paragraff 5(1), (3)(b) a (4)(a). Mae diwygiadau eraill i adran 13 nad ydynt yn berthnasol.

### **Giving notice etc. under these Regulations**

3.—(1) Paragraph (2) applies where a provision of these Regulations requires or authorises (in whatever terms) a governing body, local authority or the Welsh Ministers 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) Section 88 of the 2018 Act (giving notice etc. under this Part) applies to the provision as if—

- (a) it were a provision of Part 2 of the 2018 Act,
- (b) references in that section to a governing body or local authority were to a governing body, local authority or the Welsh Ministers, and
- (c) the reference in section 88(4) to section 7 of the Interpretation Act 1978(1) (references to service by post) were to section 13 of the Legislation (Wales) Act 2019(2) (service of documents by post or electronically).

### **Giving notice etc. under Part 2 of the 2018 Act: amendment of section 88**

4. At the end of section 88 of the 2018 Act insert—

“(6) A notification or document given to a person by sending it electronically in accordance with this section is to be treated for the purposes of this Part as having been given, unless the contrary is proved, on the day on which the electronic communication was sent.”

## **PART 2**

### **INDIVIDUAL DEVELOPMENT PLANS**

#### **Categories of looked after child prescribed under section 15 of the 2018 Act**

5. A child is not to be treated as looked after for the purposes of the 2018 Act if by or under section 83 of the Social Services and Well-being (Wales) Act

(1) 1978 c. 30.

(2) 2019 anaw 4. Section 13 is amended by the Senedd and Elections (Wales) Act 2020 (anaw 1), Schedule 1, paragraph 5(1), (3)(b) and (4)(a). There are other amendments to section 13 which are not relevant.

a Llesiant (Cymru) 2014(1) (plant sy'n derbyn gofal a phlant sy'n cael eu lletya), i gynllun addysg personol (o fewn yr ystyr a roddir gan adran 83(2A) o'r Ddeddf honno) gael ei gynnwys fel rhan o gynllun gofal a chymorth y plentyn o dan yr adran honno.

*Penderfyniadau awdurdodau lleol ar yr angen am gynlluniau datblygu unigol ar gyfer pobl ifanc*

### Dehongli rheoliadau 6 i 9 ac Atodlen 1

6.—(1) Yn y rheoliad hwn, rheoliadau 7 i 9 ac Atodlen 1—

ystyr “addysg bellach neu hyfforddiant” (“*further education or training*”) yw addysg neu hyfforddiant sy'n addas i ofynion personau sy'n hŷn na'r oedran ysgol gorfodol a gweithgaredd amser hamdden wedi ei drefnu sy'n gysylltiedig ag addysg neu hyfforddiant o'r fath, ond nid yw'n cynnwys unrhyw addysg neu hyfforddiant a geir gan berson ifanc tra bo'n ddarostyngedig i orchymyn cadw (gweler rheoliad 2(2) ar gyfer pa bryd y mae person yn ddarostyngedig i orchymyn cadw);

ystyr “deilliannau” (“*outcomes*”) yw deilliannau sy'n gysylltiedig â pharatoi ar gyfer gwaith, symud ymlaen i addysg arall, gan gynnwys addysg uwch, neu gyfleodd hyfforddi neu ddatblygu sgiliau byw'n annibynnol neu sgiliau neu nodweddion defnyddiol eraill ar gyfer bod yn oedolyn;

ystyr “rhaglen astudio” (“*programme of study*”) yw un neu ragor o gyrsiau o addysg bellach neu hyfforddiant, pa un a yw'n arwain at gymhwyster ai peidio ac yn achos mwy nag un cwrs, pa un a yw'r cyrsiau yn cael eu dilyn yn gydredol neu'n olynol ai peidio (ond os ydynt yn cael eu dilyn yn olynol rhaid iddynt fod yn rhan o raglen astudio gyffredinol).

(2) Wrth benderfynu ar gyfnod para rhaglen astudio at ddibenion rheoliad 9 ac Atodlen 1—

- (a) mae rhaglen astudio yn cael ei thrin fel pe bai'n dechrau â'r diwrnod y mae'r person ifanc yn cychwyn, neu y disgwylir iddo gychwyn, ar y rhaglen astudio ac yn dod i ben â'r diwrnod y disgwylir i'r person ei chwblhau, a
- (b) os yw'r rhaglen, neu ran ohoni, yn para am o leiaf 38 o wythnosau mewn unrhyw gyfnod o flwyddyn, mae'r rhaglen, neu'r rhan honno ohoni, yn cael ei thrin fel pe bai'n cael ei chynnal dros flwyddyn.

2014(1) (looked after and accommodated children) a personal education plan (within the meaning given by section 83(2A) of that Act) is not required to be included as part of the child's care and support plan under that section.

*Local authority decisions on necessity of individual development plans for young people*

### Interpretation of regulations 6 to 9 and Schedule 1

6.—(1) In this regulation, regulations 7 to 9 and Schedule 1—

“further education or training” (“*addysg bellach neu hyfforddiant*”) means education or training suitable to the requirements of persons who are above compulsory school age and organised leisure time occupation connected with such education or training, but it does not include any education or training received by a young person whilst subject to a detention order (see regulation 2(2) for when a person is subject to a detention order);

“outcomes” (“*deilliannau*”) means outcomes related to preparing for work, progressing to other education, including higher education, or training opportunities or developing independent living skills or other useful skills or qualities for adulthood;

“programme of study” (“*rhaglen astudio*”) means one or more courses of further education or training, whether or not leading to a qualification and in the case of more than one course, whether or not the courses are taken concurrently or in succession (but if in succession they must be part of an overall programme of study).

(2) In determining the duration of a programme of study for the purposes of regulation 9 and Schedule 1—

- (a) a programme of study is treated as beginning with the day on which the young person commences, or is expected to commence, the programme of study and ending with the day on which the person is expected to complete, it, and
- (b) if the duration of the programme, or part of it, lasts for at least 38 weeks in any one year period, the programme, or that part of it, is treated as taking place over one year.

(1) 2014 decc 4. Mewnosodwyd adran 83(2A), a diwygiwyd adran 83 yn fwy cyffredinol, gan adran 16 o Ddeddf 2018.

(1) 2014 anaw 4. Section 83(2A) was inserted by, and section 83 more generally amended by, section 16 of the 2018 Act.

(3) Wrth benderfynu ar gyfnod para addysg bellach neu hyfforddiant arall a ddilynir gan berson ifanc at ddibenion rheoliad 9 ac Atodlen 1—

- (a) mae'r addysg bellach neu'r hyfforddiant yn cael ei thrin neu ei drin fel pe bai wedi dechrau â diwrnod cyntaf y mis y cychwynnodd y person ifanc arni neu arno ac yn dod i ben â diwrnod olaf y mis—
  - (i) y cwblhaodd y person ifanc yr addysg bellach neu'r hyfforddiant neu y peidiodd fel arall â chael yr addysg bellach neu'r hyfforddiant, neu
  - (ii) y disgwylir i'r person ifanc gwblhau'r addysg bellach neu'r hyfforddiant neu y disgwylir fel arall iddo beidio â chael yr addysg bellach neu'r hyfforddiant;
- (b) os yw'r addysg bellach neu'r hyfforddiant, neu ran ohoni neu ohono, yn para am o leiaf 38 o wythnosau mewn unrhyw gyfnod o flwyddyn, mae'n cael ei thrin neu ei drin, neu mae'r rhan honno ohoni neu ohono yn cael ei thrin, fel pe bai'n cael ei chynnal neu ei gynnal dros flwyddyn.

### Rhaglen astudio bosibl

7.—(1) Mae'r rheoliad hwn yn gymwys i benderfyniad awdurdod lleol o dan adran 14(1)(c)(ii) neu 31(6)(b) o Ddeddf 2018 o ran a yw cynllun datblygu unigol yn angenrheidiol ar gyfer person ifanc nad yw'n ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru nac wedi ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yng Nghymru.

(2) Rhaid i'r awdurdod lleol—

- (a) nodi deilliannau dymunol y person ifanc, os oes rhai, a
- (b) ystyried pa raglenni astudio a all fod ar gael ac a fyddai'n addas i alluogi'r person ifanc i gyflawni'r deilliannau dymunol hynny.

(3) Wrth ystyried y mater ym mharagraff (2)(b)—

- (a) yn gyntaf rhaid i'r awdurdod lleol ystyried rhaglenni astudio mewn ysgolion prif ffrwd a gynhelir neu sefydliadau yn y sector addysg bellach;
- (b) ni chaiff yr awdurdod lleol ystyried rhaglenni astudio mewn sefydliadau ac eithrio'r rheini a grybwyllir ym mharagraff (7) ond pan fo'n ymddangos yn debygol na ellir diwallu anghenion rhesymol y person ifanc am ddarpariaeth ddysgu ychwanegol i ddilyn rhaglen astudio addas oni bai bod yr awdurdod lleol yn sicrhau ar gyfer y person ifanc—

(3) In determining the duration of other further education or training undertaken by a young person for the purposes of regulation 9 and Schedule 1—

- (a) the further education or training is treated as having begun with the first day of the month during which the young person commenced it and ending with the last day of the month during which—
  - (i) the young person completed or otherwise ceased to receive the further education or training, or
  - (ii) the young person is expected to complete or otherwise cease receiving the further education or training;
- (b) if the duration of the further education or training, or part of it, lasts for at least 38 weeks in any one year period, it, or that part of it, is treated as taking place over one year.

### Potential programme of study

7.—(1) This regulation applies to a local authority's decision under section 14(1)(c)(ii) or 31(6)(b) of the 2018 Act on whether an individual development plan is necessary for a young person who is neither a registered pupil at a maintained school in Wales nor enrolled as a student at an institution in the further education sector in Wales.

(2) The local authority must—

- (a) identify the young person's desired outcomes, if any, and
- (b) consider what programmes of study may be available that would be suitable for enabling the young person to meet those desired outcomes.

(3) The local authority, when considering the matter in paragraph (2)(b)—

- (a) must first consider programmes of study at mainstream maintained schools or institutions in the further education sector;
- (b) may only consider programmes of study at institutions other than those mentioned in paragraph (7) where it appears likely that the young person's reasonable needs for additional learning provision to undertake a suitable programme of study cannot be met unless the local authority were to secure for the young person—

- (i) lle mewn sefydliad ac eithrio un a grybwyllir ym mharagraff (7), neu
- (ii) bwyd a llety.

(4) Wrth benderfynu a yw rhaglen astudio a ddarperir gan sefydliad ac eithrio un a grybwyllir ym mharagraff (7) yn addas ar gyfer person ifanc, rhaid i'r awdurdod lleol ystyried, yn unol â pharagraffau 1 a 2 o Atodlen 1, a oes posibilrwydd realistig y byddai'r person ifanc yn cyflawni deilliannau dymunol y person drwy ddilyn y rhaglen astudio neu drwy barhau i ddilyn y rhaglen astudio (gydag unrhyw addasiadau arfaethedig).

(5) Pan fo'r person ifanc eisoes yn dilyn rhaglen astudio, nid yw paragraff (2) yn ei gwneud yn ofynnol i'r awdurdod lleol ystyried rhaglenni astudio eraill os yw wedi ei fodloni bod y rhaglen y mae'r person ifanc yn ei dilyn yn parhau i fod yn addas, neu y byddai'n addas gydag addasiadau, i alluogi'r person ifanc i gyflawni deilliannau dymunol y person.

(6) Nid oes angen i'r awdurdod lleol gydymffurfio â pharagraff (2) neu unrhyw ran ohono, os yw'r awdurdod lleol wedi ei fodloni na fyddai cydymffurfio ag ef, neu â'r rhan honno ohono, yn effeithio ar ei benderfyniad o dan adran 14(1)(c)(ii) neu 31(6)(b) o Ddeddf 2018.

(7) Mae rheoliad 8 yn gymwys pan fo'r person ifanc yn ddisgybl cofrestredig neu'n fyfyrwr sydd wedi ymrestru mewn unrhyw un o'r sefydliadau a ganlyn, neu pan fo'r person ifanc i fod yn ddisgybl neu'n fyfyrwr o'r fath, i ddilyn rhaglen astudio, neu i barhau i ddilyn rhaglen astudio, i gyflawni deilliannau dymunol y person ifanc—

- (a) ysgol a gynhelir yng Nghymru neu Loegr;
- (b) sefydliad yn y sector addysg bellach yng Nghymru neu Loegr;
- (c) Academi.

(8) Mae rheoliad 9 yn gymwys i bob achos arall.

**Yr angen am gynllun: rhaglenni astudio mewn ysgolion a gynhelir a sefydliadau addysg bellach yng Nghymru a sefydliadau penodol yn Lloegr**

8.—(1) Mae'n angenrheidiol i'r awdurdod lleol lunio a chynnal cynllun datblygu unigol, neu barhau i gynnal cynllun datblygu unigol, ar gyfer y person ifanc os byddai'r awdurdod lleol, neu os yw'r awdurdod lleol, wrth lunio neu gynnal y cynllun ar gyfer y person ifanc, o dan y ddyletswydd yn adran 14(6) o Ddeddf 2018 i ddisgrifio darpariaeth o fath a restrir yn adran 14(7) o'r Ddeddf honno.

- (i) a place at an institution other than one mentioned in paragraph (7), or
- (ii) board and lodging.

(4) When determining whether a programme of study provided by an institution other than one mentioned in paragraph (7) is suitable for a young person, the local authority must consider in accordance with paragraphs 1 and 2 of Schedule 1, whether there is a realistic prospect that the young person would meet the person's desired outcomes by undertaking, or continuing to undertake (with any proposed modifications), the programme of study.

(5) Where the young person is already undertaking a programme of study, paragraph (2) does not require the local authority to consider other programmes of study if it is satisfied that the programme that the young person is undertaking remains suitable, or with modifications would be suitable, for enabling the young person to meet the person's desired outcomes.

(6) The local authority need not comply with paragraph (2) or any part of it, if the local authority is satisfied that complying with it, or that part of it, would not affect its decision under section 14(1)(c)(ii) or 31(6)(b) of the 2018 Act.

(7) Regulation 8 applies where the young person is, or is to be, a registered pupil or enrolled student at any of the following institutions to undertake, or continue to undertake, a programme of study to meet the young person's desired outcomes—

- (a) a maintained school in Wales or England;
- (b) an institution in the further education sector in Wales or England;
- (c) an Academy.

(8) Regulation 9 applies to all other cases.

**Necessity of a plan: programmes of study at maintained schools and further education institutions in Wales and certain institutions in England**

8.—(1) It is necessary for the local authority to prepare and maintain, or continue to maintain, an individual development plan for the young person if the local authority, in preparing or maintaining the plan for the young person, would be or is under the duty in section 14(6) of the 2018 Act to describe provision of a kind listed in section 14(7) of that Act.

(2) Mae hefyd yn angenrheidiol i awdurdod lleol barhau i gynnal cynllun datblygu unigol ar gyfer y person ifanc os yw'r person ifanc i gofrestru'n ddisgybl mewn ysgol a gynhelir yng Nghymru neu ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yng Nghymru i ddilyn rhaglen astudio.

(3) Ar gyfer achosion nad ydynt yn dod o fewn paragraff (1) neu (2), rhaid i'r awdurdod lleol ystyried—

- (a) yn achos person ifanc sydd i gofrestru'n ddisgybl mewn ysgol a gynhelir yng Nghymru neu ymrestru'n fyfyrwr mewn sefydliad yn y sector addysg bellach yng Nghymru, a yw'n rhesymol i gorff llywodraethu'r ysgol neu'r sefydliad sicrhau'r ddarpariaeth ddysgu ychwanegol;
- (b) yn achos person ifanc sy'n ddisgybl cofrestredig neu'n fyfyrwr sydd wedi ymrestru mewn ysgol a gynhelir yn Lloegr, Academi neu sefydliad yn y sector addysg bellach yn Lloegr, neu sydd i fod yn ddisgybl neu'n fyfyrwr o'r fath, a fyddai corff llywodraethu'r ysgol neu'r sefydliad neu, yn achos Academi, y perchennog, yn sicrhau'r ddarpariaeth ddysgu ychwanegol.

(4) Wrth ystyried mater y cyfeirir ato ym mharagraff (3), rhaid i'r awdurdod lleol ymgynghori â'r corff llywodraethu neu'r perchennog.

(5) Mae'n angenrheidiol i'r awdurdod lleol lunio a chynnal cynllun datblygu unigol, neu barhau i gynnal cynllun datblygu unigol, ar gyfer y person ifanc—

- (a) os yw'r awdurdod lleol, yn yr achos y cyfeirir ato ym mharagraff (3)(a), yn ystyried nad yw'n rhesymol i gorff llywodraethu'r ysgol neu'r sefydliad sicrhau'r ddarpariaeth ddysgu ychwanegol;
- (b) os nad yw'r awdurdod lleol, yn yr achos y cyfeirir ato ym mharagraff (3)(b), wedi ei fodloni y byddai'r corff llywodraethu neu'r perchennog yn sicrhau'r ddarpariaeth ddysgu ychwanegol.

(6) Fel arall nid yw'n angenrheidiol i'r awdurdod lleol lunio a chynnal cynllun datblygu unigol, neu barhau i gynnal cynllun datblygu unigol, ar gyfer y person ifanc.

(7) Mae cyfeiriadau yn y rheoliad hwn at ddarpariaeth ddysgu ychwanegol yn gyfeiriadau at y ddarpariaeth ddysgu ychwanegol y gelwir amdani gan anghenion dysgu ychwanegol y person ifanc er mwyn dilyn y rhaglen astudio neu barhau i ddilyn y rhaglen astudio.

(2) It is also necessary for a local authority to continue to maintain an individual development plan for the young person if the young person is to register as a pupil at a maintained school in Wales or enrol as a student at an institution in the further education sector in Wales to undertake a programme of study.

(3) For cases not falling within paragraph (1) or (2), the local authority must consider—

- (a) in the case of a young person who is to register as a pupil at a maintained school in Wales or enrol as a student at an institution in the further education sector in Wales, whether it is reasonable for the governing body of the school or institution to secure the additional learning provision;
- (b) in the case of a young person who is, or is to be, a registered pupil or enrolled student at a maintained school in England, Academy or institution in the further education sector in England, whether the governing body of the school or institution or, in the case of an Academy, the proprietor would secure the additional learning provision.

(4) In considering a matter referred to in paragraph (3), the local authority must consult the governing body or proprietor.

(5) It is necessary for the local authority to prepare and maintain, or to continue to maintain, an individual development plan for the young person if—

- (a) in the case referred to in paragraph (3)(a), the local authority considers that it is not reasonable for the governing body of the school or institution to secure the additional learning provision;
- (b) in the case referred to in paragraph (3)(b), the local authority is not satisfied that the governing body or proprietor would secure the additional learning provision.

(6) Otherwise it is not necessary for the local authority to prepare and maintain, or to continue to maintain, an individual development plan for the young person.

(7) References in this regulation to additional learning provision are to the additional learning provision which is called for by the young person's additional learning needs in order to undertake, or continue to undertake, the programme of study.

**Achosion eraill: anghenion rhesymol am addysg neu hyfforddiant a'r angen am gynllun datblygu unigol**

9.—(1) Mae gan y person ifanc anghenion rhesymol am addysg neu hyfforddiant pan na fo'r rhaglen astudio addas y bwriedir i'r person ifanc ei dilyn, neu barhau i'w dilyn, ynghyd ag unrhyw addysg bellach neu hyfforddiant arall a ddilynrir gan y person ifanc, yn para am fwy na 2 flynedd.

(2) Caiff yr awdurdod lleol benderfynu bod gan y person ifanc anghenion rhesymol am addysg neu hyfforddiant os yw unrhyw un neu ragor o'r amgylchiadau a ddisgrifir ym mharagraffau 3(1), 4(1), 5(1) a 6(1) o Atodlen 1 yn gymwys.

(3) At ddibenion penderfynu a oes gan y person ifanc anghenion rhesymol am addysg neu hyfforddiant o dan baragraff (2), mae paragraffau 3(2), 4(2), 5(2) a 6(2) o Atodlen 1 yn nodi'r priod ffactorau y mae rhaid i'r awdurdod lleol eu hystyried ar gyfer pob un o'r amgylchiadau sy'n gymwys.

(4) At ddibenion adran 31(6)(b) o Ddeddf 2018, mae gan berson ifanc anghenion rhesymol am addysg neu hyfforddiant pan fo'r person ifanc yn dilyn rhaglen astudio addas yn unol â phenderfyniad o dan baragraff (2).

(5) Pan fo gan y person ifanc anghenion rhesymol, neu pan fo awdurdod lleol yn penderfynu bod gan y person ifanc anghenion rhesymol, am addysg neu hyfforddiant o dan y rheoliad hwn—

(a) at ddibenion adran 14(1)(c)(ii) o Ddeddf 2018, mae'n angenrheidiol i'r awdurdod lleol lunio a chynnal cynllun datblygu unigol ar gyfer y person ifanc os byddai'r awdurdod lleol, pe bai'n llunio cynllun datblygu unigol ar gyfer y person ifanc, o dan y ddyletswydd yn adran 14(6) o'r Ddeddf honno i bennu yn y cynllun ddarpariaeth o'r math a restrir yn adran 14(7)(a) o'r Ddeddf honno;

(b) at ddibenion adran 31(6)(b) o'r Ddeddf honno, mae'n angenrheidiol i'r awdurdod lleol barhau i gynnal cynllun datblygu unigol y person ifanc os yw'r awdurdod lleol o dan y ddyletswydd yn adran 14(6) o'r Ddeddf honno i bennu yn y cynllun ddarpariaeth o'r math a restrir yn adran 14(7)(a) o'r Ddeddf honno.

(6) Fel arall nid yw'n angenrheidiol i'r awdurdod lleol lunio a chynnal cynllun datblygu unigol, neu barhau i gynnal cynllun datblygu unigol, ar gyfer y person ifanc.

**Other cases: reasonable needs for education or training and necessity of an individual development plan**

9.—(1) The young person has reasonable needs for education or training where the duration of the suitable programme of study that it is proposed the young person undertake, or continue to undertake, together with any other further education or training undertaken by the young person is not more than 2 years.

(2) The local authority may determine that the young person has reasonable needs for education or training if any of the circumstances described in paragraphs 3(1), 4(1), 5(1) and 6(1) of Schedule 1 apply.

(3) For the purposes of determining whether the young person has reasonable needs for education or training under paragraph (2), paragraphs 3(2), 4(2), 5(2) and 6(2) of Schedule 1 set out the respective factors which the local authority must take into account for each of the circumstances that apply.

(4) For the purposes of section 31(6)(b) of the 2018 Act, a young person has reasonable needs for education or training where the young person is undertaking a suitable programme of study in accordance with a determination under paragraph (2).

(5) Where the young person has, or a local authority determines that the young person has, reasonable needs for education or training under this regulation—

(a) for the purposes of section 14(1)(c)(ii) of the 2018 Act, it is necessary for the local authority to prepare and maintain an individual development plan for the young person if the local authority, were it to be preparing an individual development plan for the young person, would be under the duty in section 14(6) of that Act to specify in the plan provision of the kind listed in section 14(7)(a) of that Act;

(b) for the purposes of section 31(6)(b) of that Act, it is necessary for the local authority to continue to maintain the young person's individual development plan if the local authority is under the duty in section 14(6) of that Act to specify in the plan provision of the kind listed in section 14(7)(a) of that Act.

(6) Otherwise it is not necessary for the local authority to prepare and maintain, or continue to maintain, an individual development plan for the young person.

## **Hysbysiad o benderfyniad o dan adran 14(1)(c)(ii) o Ddeddf 2018 nad oes angen cynllun**

**10.**—(1) Mae'r rheoliad hwn yn gymwys pan fo awdurdod lleol yn penderfynu o dan adran 14(1)(c)(ii) o Ddeddf 2018 nad oes angen llunio a chynnal cynllun datblygu unigol ar gyfer person ifanc.

(2) Rhaid i'r awdurdod lleol hysbysu'r person ifanc am—

- (a) y penderfyniad, a
- (b) y rhesymau dros y penderfyniad.

(3) Rhaid i'r awdurdod lleol wneud y penderfyniad a rhoi'r hysbysiad a grybwyllir ym mharagraff (2), yn brydlon ac mewn unrhyw achos cyn diwedd y cyfnod o 12 wythnos sy'n dechrau â thrannoeth y diwrnod y cydsyniodd y person ifanc i'r penderfyniad o dan adran 13(1) o Ddeddf 2018 gael ei wneud.

(4) Nid oes angen i'r awdurdod lleol gydymffurfio â'r gofyniad i wneud y penderfyniad a rhoi'r hysbysiad cyn diwedd y cyfnod o 12 wythnos os yw'n anymarferol gwneud hynny oherwydd amgylchiadau y tu hwnt i'w reolaeth.

(5) Wrth roi'r hysbysiad y cyfeirir ato ym mharagraff (2), rhaid i'r awdurdod lleol hefyd roi i'r person ifanc—

- (a) manylion cyswllt ar gyfer yr awdurdod lleol;
- (b) gwybodaeth am sut i gael mynediad at drefniadau'r awdurdod lleol o dan adran 9 o Ddeddf 2018 ar gyfer darparu i bobl wybodaeth a chynghor ynghylch anghenion dysgu ychwanegol a'r system y gwneir darpariaeth ar ei chyfer gan Ran 2 o'r Ddeddf honno;
- (c) manylion ynghylch trefniadau'r awdurdod lleol ar gyfer osgoi a datrys anghytundebau o dan adran 68 o Ddeddf 2018;
- (d) manylion ynghylch trefniadau'r awdurdod lleol ar gyfer darparu gwasanaethau eirioli annibynnol o dan adran 69 o Ddeddf 2018;
- (e) gwybodaeth am yr hawl i apelio i'r Tribiwnlys Addysg o dan adran 70 o Ddeddf 2018 yn erbyn y penderfyniad.

*Terfynau amser ar gyfer atgyfeiriadau adran 20 a gofyn bod y penderfyniad i beidio â chynnal cynlluniau yn cael ei ailystyried*

## **Terfyn amser i gorff GIG ymateb i atgyfeiriad adran 20**

**11.**—(1) Rhaid i gorff GIG sydd o dan ddyletswydd i roi gwybod o dan adran 21(1) neu (2) o Ddeddf 2018 (cynlluniau datblygu unigol: Byrddau Iechyd Lleol ac

## **Notification of decision under section 14(1)(c)(ii) of the 2018 Act that plan not necessary**

**10.**—(1) This regulation applies where a local authority decides under section 14(1)(c)(ii) of the 2018 Act that it is not necessary to prepare and maintain an individual development plan for a young person.

(2) The local authority must notify the young person of—

- (a) the decision, and
- (b) the reasons for the decision.

(3) The local authority must make the decision and give the notification mentioned in paragraph (2), promptly and in any event before the end of the period of 12 weeks beginning with the day after the day on which the young person consented to the decision under section 13(1) of the 2018 Act being made.

(4) The local authority need not comply with the requirement to make the 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.

(5) When giving the notification referred to in paragraph (2), the local authority must also give the young person—

- (a) contact details for the local authority;
- (b) information about how to access the local 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 local authority's arrangements for the avoidance and resolution of disagreements under section 68 of the 2018 Act;
- (d) details of the local 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 70 of the 2018 Act against the decision.

*Time limits for section 20 referrals and requesting reconsideration of decision to cease to maintain plans*

## **Time limit for NHS body responding to section 20 referral**

**11.**—(1) An NHS body under a duty to inform under section 21(1) or (2) of the 2018 Act (individual development plans: Local Health Boards and NHS

ymddiriedolaethau'r GIG) gydymffurfio â'r ddyletswydd honno yn brydlon ac mewn unrhyw achos o fewn y cyfnod a ragnodir gan baragraff (2).

(2) Mae'r cyfnod rhagnodedig—

- (a) yn dechrau â'r diwrnod y mae'r corff GIG yn cael yr atgyfeiriad o dan adran 20 o Ddeddf 2018, a
- (b) yn dod i ben ar ddiwedd 6 wythnos sy'n dechrau â thrannoeth y diwrnod a grybwyllir yn is-baragraff (a).

(3) Nid oes angen i'r corff GIG gydymffurfio â'r ddyletswydd i roi gwybod o dan adran 21(1) neu (2) o fewn y cyfnod a ragnodir gan baragraff (2) os yw'n anymarferol gwneud hynny oherwydd amgylchiadau y tu hwnt i'w reolaeth.

### **Terfyn amser ar gyfer gofyn i benderfyniad i beidio â chynnal cynllun gael ei ailystyried**

**12.**—(1) Mae'r cyfnod a ragnodir at ddibenion adran 32(1)(b) o Ddeddf 2018 (ailystyriaeth gan awdurdodau lleol o benderfyniadau cyrff llywodraethu o dan adran 31)—

- (a) yn dechrau â'r diwrnod y mae'r corff llywodraethu yn rhoi'r hysbysiadau o dan adran 31(8) a (9) o'r Ddeddf honno, a
- (b) yn dod i ben ar ddiwedd 4 wythnos sy'n dechrau â thrannoeth y diwrnod a grybwyllir yn is-baragraff (a).

(2) Pan fo'r hysbysiadau o dan adran 31(8) a (9) yn cael eu rhoi ar ddiwrnodau gwahanol (pa un ai oherwydd eu bod yn cael eu rhoi i bersonau gwahanol ar ddiwrnodau gwahanol neu eu rhoi o dan bob is-adran ar ddiwrnodau gwahanol), mae'r cyfeiriad ym mharagraff (1)(a) at y diwrnod y mae'r corff llywodraethu yn rhoi'r hysbysiadau yn gyfeiriad at yr hwyrach o'r diwrnodau hynny.

*Trosglwyddo cyfrifoldeb am gynlluniau datblygu unigol*

### **Cais awdurdod lleol i drosglwyddo cynllun i gorff llywodraethu sefydliad addysg bellach**

**13.**—(1) Rhaid i gais gan awdurdod lleol o dan adran 36(2) o Ddeddf 2018 fod corff llywodraethu sefydliad yn y sector addysg bellach yn dod yn gyfrifol am gynnal cynllun datblygu unigol ar gyfer person ifanc sydd wedi ymrestru'n fyfyrwr yn y sefydliad—

- (a) cael ei wneud yn ysgrifenedig, a
- (b) dod gyda chopi o'r cynllun, oni bai bod gan y corff llywodraethu gopi ohono eisoes.

trusts) must comply with that duty promptly and in any event within the period prescribed by paragraph (2).

(2) The prescribed period—

- (a) begins with the day on which the NHS body receives the referral under section 20 of the 2018 Act, and
- (b) ends at the end of 6 weeks beginning with the day after the day mentioned in subparagraph (a).

(3) The NHS body need not comply with the duty to inform under section 21(1) or (2) within the period prescribed by paragraph (2) if it is impractical to do so due to circumstances beyond its control.

### **Time limit for requesting reconsideration of decision to cease to maintain plan**

**12.**—(1) The period prescribed for the purposes of section 32(1)(b) of the 2018 Act (reconsideration by local authorities of decisions of governing bodies under section 31)—

- (a) begins with the day on which the governing body gives the notifications under section 31(8) and (9) of that Act, and
- (b) ends at the end of 4 weeks beginning with the day after the day mentioned in subparagraph (a).

(2) Where the notifications under section 31(8) and (9) are given on different days (whether because given to different persons on different days or given under each subsection on different days), the reference in paragraph (1)(a) to the day on which the governing body gives the notifications is a reference to the later of those days.

*Transfer of responsibility for individual development plans*

### **Local authority request to transfer plan to governing body of further education institution**

**13.**—(1) A request by a local authority under section 36(2) of the 2018 Act that a governing body of an institution in the further education sector becomes responsible for maintaining an individual development plan for a young person who is enrolled as a student at the institution must be—

- (a) made in writing, and
- (b) accompanied by a copy of the plan, unless the governing body already has a copy of it.



(2) Mae'r cyfnod a ragnodir at ddibenion adran 36(3) o Ddeddf 2018 (y cyfnod y caiff awdurdod lleol atgyfeirio mater at Weinidogion Cymru ar ei ôl)—

- (a) yn dechrau â'r diwrnod y mae'r corff llywodraethu yn cael y cais o dan adran 36(2), a
- (b) yn dod i ben ar ddiwedd y cyfnod o 20 niwrnod amser tymor sy'n dechrau â thrannoeth y diwrnod a grybwyllir yn is-baragraff (a).

(3) Pan fo corff llywodraethu yn cytuno i gais awdurdod lleol o dan adran 36(2)—

- (a) rhaid iddo roi gwybod i'r awdurdod lleol yn ysgrifenedig am ei gyfundeb, a
- (b) mae'n dod yn gyfrifol am y cynllun o dan adran 12(4) o Ddeddf 2018—
  - (i) ar y diwrnod y cytunir arno rhwng y corff llywodraethu a'r awdurdod i'r cyfrifoldeb gael ei drosglwyddo;
  - (ii) fel arall ar y diwrnod y mae'r awdurdod yn cael cytundeb ysgrifenedig y corff llywodraethu i'r cais.

(4) Ym mharagraff (2), ystyr “diwrnod amser tymor” mewn perthynas â sefydliad yn y sector addysg bellach yw diwrnod y mae'r sefydliad i fod i gwrdd at ddiben addysgu myfyrwyr ar yr amod bod y diwrnod hwnnw o fewn cyfnod amser y mae'r sefydliad yn cyflenwi'r rhan fwyaf o'i gyrsiau llawnamser ynddo.

### **Atgyfeiriad awdurdod lleol at Weinidogion Cymru er mwyn penderfynu a ddylai corff llywodraethu sefydliad addysg bellach gynnal cynllun**

14.—(1) Mae'r rheoliad hwn yn gymwys mewn perthynas ag atgyfeiriad o dan adran 36 o Ddeddf 2018 gan awdurdod lleol at Weinidogion Cymru am benderfyniad o ran a ddylai corff llywodraethu sefydliad yn y sector addysg bellach gynnal cynllun datblygu unigol ar gyfer person ifanc sydd wedi ymrestru'n fyfyrwr yn y sefydliad.

(2) Rhaid i'r atgyfeiriad—

- (a) cael ei wneud o fewn y cyfnod o 4 wythnos sy'n dechrau â'r diwrnod ar ôl diwedd y cyfnod a ragnodir gan reoliad 13(2),
- (b) cael ei wneud yn ysgrifenedig,
- (c) dod gyda chopi o'r adrannau o'r cynllun datblygu unigol sy'n cynnwys y disgrifiad o anghenion dysgu ychwanegol y person ifanc a'r disgrifiad o'r ddarpariaeth ddysgu ychwanegol, a
- (d) dod gyda chopi o unrhyw wybodaeth arall yn y cynllun datblygu unigol y mae'r awdurdod lleol yn ystyried ei bod yn angenrheidiol i benderfynu ar y mater.

(2) The period prescribed for the purposes of section 36(3) of the 2018 Act (period after which local authority may refer matter to the Welsh Ministers)—

- (a) begins with the day on which the governing body receives the request under section 36(2), and
- (b) ends at the end of the period of 20 term time days beginning with the day after the day mentioned in sub-paragraph (a).

(3) Where a governing body agrees to a local authority's request under section 36(2), it—

- (a) must inform the local authority in writing of its agreement, and
- (b) becomes responsible for the plan under section 12(4) of the 2018 Act—
  - (i) on the day agreed between the governing body and the authority for responsibility to transfer;
  - (ii) otherwise on the day on which the authority receives the governing body's agreement in writing to the request.

(4) In paragraph (2), “term time day” in relation to an institution in the further education sector means a day on which the institution is due to meet for the purpose of teaching students provided that day is within a time period in which the institution delivers the majority of its full-time courses.

### **Local authority referral to the Welsh Ministers to determine whether governing body of further education institution should maintain plan**

14.—(1) This regulation applies in relation to a referral under section 36 of the 2018 Act by a local authority to the Welsh Ministers for a determination as to whether a governing body of an institution in the further education sector should maintain an individual development plan for a young person who is enrolled as a student at the institution.

(2) The referral must be—

- (a) made within the period of 4 weeks beginning with the day after the end of the period prescribed by regulation 13(2),
- (b) made in writing,
- (c) accompanied by a copy of the sections of the individual development plan containing the description of the young person's additional learning needs and the description of the additional learning provision, and
- (d) accompanied by a copy of any other information in the individual development plan which the local authority considers is necessary to determine the matter.

(3) Rhaid i Weinidogion Cymru hysbysu'r person ifanc a'r corff llywodraethu am yr atgyfeiriad a gwahodd sylwadau.

(4) Rhaid i Weinidogion Cymru hysbysu'r person ifanc, yr awdurdod lleol a'r corff llywodraethu am—

- (a) eu penderfyniad o dan adran 36(4) o Ddeddf 2018, a
- (b) y rhesymau dros y penderfyniad.

(5) Os yw Gweinidogion Cymru yn penderfynu y dylai'r corff llywodraethu gynnal y cynllun, mae dyletswydd y corff llywodraethu i'w gynnal o dan adran 12(4) o Ddeddf 2018 yn cymryd effaith—

- (a) ar y diwrnod y caniateir ei bennu yn yr hysbysiad o dan baragraff (4);
- (b) fel arall ar y diwrnod y mae'r corff llywodraethu yn cael yr hysbysiad hwnnw.

### **Rhoi copïau o gynlluniau datblygu unigol mewn sefyllfaoedd trosglwyddo**

**15.**—(1) Mae paragraff (2) yn gymwys o dan bob un o'r amgylchiadau a ganlyn—

- (a) mae corff llywodraethu neu awdurdod lleol (“y corff newydd”) yn dod yn gyfrifol o dan Ran 2 o Ddeddf 2018 am gynnal neu gadw cynllun datblygu unigol a oedd yn cael ei gynnal neu ei gadw yn flaenorol o dan y Rhan honno gan gorff llywodraethu arall neu awdurdod lleol arall (“yr hen gorff”);
- (b) byddai awdurdod lleol (“y corff newydd”) yn dod yn gyfrifol o dan Ran 2 o Ddeddf 2018 am gynnal neu gadw cynllun datblygu unigol a oedd yn cael ei gynnal neu ei gadw yn flaenorol o dan y Rhan honno gan gorff llywodraethu neu awdurdod lleol arall (“yr hen gorff”) oni bai am ddiffyg gwybodaeth y corff newydd am yr amgylchiadau sy'n arwain at ei gyfrifoldeb am y cynllun (gweler adrannau 30(5) a 42(5) o Ddeddf 2018 a rheoliad 22(3));
- (c) mae corff llywodraethu ysgol a gynhelir (“y corff newydd”) yn dod yn gyfrifol am gynnal cynllun datblygu unigol yn rhinwedd bod awdurdod lleol (“yr hen gorff”) yn cyfarwyddo'r corff llywodraethu o dan adran 14(2)(b)(i) neu (4) o Ddeddf 2018.

(2) Rhaid i'r hen gorff roi copi o'r cynllun i'r corff newydd oni bai bod gan y corff newydd gopi ohono eisoes.

(3) The Welsh Ministers must notify the young person and the governing body of the referral and invite representations.

(4) The Welsh Ministers must notify the young person, the local authority and the governing body of—

- (a) their determination under section 36(4) of the 2018 Act, and
- (b) the reasons for the determination.

(5) If the Welsh Ministers determine that the governing body should maintain the plan, the governing body's duty to maintain it under section 12(4) of the 2018 Act takes effect—

- (a) on the day which may be specified in the notification under paragraph (4);
- (b) otherwise on the day on which that notification is received by the governing body.

### **Giving copies of individual development plans in transfer situations**

**15.**—(1) Paragraph (2) applies in each of the following circumstances—

- (a) a governing body or a local authority (“the new body”) becomes responsible under Part 2 of the 2018 Act for maintaining or keeping an individual development plan which was previously maintained or kept under that Part by another governing body or local authority (“the old body”);
- (b) a local authority (“the new body”) would become responsible under Part 2 of the 2018 Act for maintaining or keeping an individual development plan which was previously maintained or kept under that Part by a governing body or another local authority (“the old body”) but for the new body's lack of knowledge of circumstances which give rise to it being responsible for the plan (see sections 30(5) and 42(5) of the 2018 Act and regulation 22(3));
- (c) a governing body of a maintained school (“the new body”) becomes responsible for maintaining an individual development plan by virtue of a local authority (“the old body”) directing the governing body under section 14(2)(b)(i) or (4) of the 2018 Act.

(2) The old body must give a copy of the plan to the new body unless the new body already has a copy of it.

(3) Ond pan na fo'r hen gorff yn ymwybodol o'r amgylchiadau sy'n arwain at drosglwyddo cyfrifoldeb am y cynllun, nid yw'r ddyletswydd ym mharagraff (2) yn gymwys hyd nes bod yr hen gorff yn ymwybodol o'r amgylchiadau hynny.

### **Cyfnodau adolygu pan fo plentyn wedi dod yn blentyn sy'n derbyn gofal neu pan fo plentyn neu berson ifanc wedi peidio â bod yn blentyn neu berson ifanc sy'n derbyn gofal**

**16.**—(1) Mae paragraff (2) yn gymwys o dan bob un o'r amgylchiadau a ganlyn—

- (a) mae awdurdod lleol yn dod yn gyfrifol, yn rhinwedd adran 35(10) o Ddeddf 2018, am gynnal cynllun datblygu unigol ar gyfer plentyn sydd wedi dod yn blentyn sy'n derbyn gofal gan yr awdurdod lleol (“y trosglwyddiad”);
- (b) mae awdurdod lleol yn dod yn gyfrifol, yn rhinwedd adran 35(12) a (13) o Ddeddf 2018, am gynnal cynllun datblygu unigol ar gyfer plentyn neu berson ifanc sydd wedi peidio â bod yn blentyn sy'n derbyn gofal (“y trosglwyddiad”).

(2) At ddibenion penderfynu ar y cyfnod adolygu y mae rhaid i'r awdurdod lleol, o dan adran 24(1) (ar gyfer achos o fewn paragraff (1)(a)) neu 23(1) (ar gyfer achos o fewn paragraff (1)(b)) o Ddeddf 2018, adolygu'r cynllun yn gyntaf ynddo yn dilyn y trosglwyddiad, mae adrannau 23 a 24 o'r Ddeddf honno yn gymwys (er gwaethaf adran 23(12) ar gyfer achos o fewn paragraff (1)(a)) fel yr oeddent yn union cyn y trosglwyddiad.

### **Sicrhau darpariaeth arall pan fo cyfrifoldeb am gynllun yn cael ei drosglwyddo**

**17.**—(1) Mae paragraffau (2) a (3) yn gymwys—

- (a) pan fo awdurdod lleol, yn dilyn trosglwyddo cyfrifoldeb am gynnal cynllun datblygu unigol o dan adran 35 o Ddeddf 2018, o dan ddyletswydd i sicrhau lle mewn ysgol benodol neu sefydliad arall a ddisgrifir yn y cynllun yn unol ag adran 14(6) neu 19(4) o'r Ddeddf honno, a
- (b) pan na fo, yng ngoleuni'r amgylchiadau sydd wedi arwain at y trosglwyddiad, yn ymarferol mwyach i'r plentyn neu'r person ifanc fynychu'r ysgol neu'r sefydliad arall.

(2) Nid yw dyletswydd yr awdurdod lleol i sicrhau'r lle yn yr ysgol neu'r sefydliad arall yn gymwys hyd nes ei bod yn bosibl diwygio'r cynllun ac eithrio pan fo'r awdurdod yn trefnu bwyd a llety o dan baragraff (3).

(3) But where the old body is not aware of the circumstances giving rise to the transfer of responsibility for the plan, the duty in paragraph (2) does not apply until the old body is aware of those circumstances.

### **Review periods where child has become looked after or child or young person has ceased to be looked after**

**16.**—(1) Paragraph (2) applies in each of the following circumstances—

- (a) a local authority becomes responsible, by virtue of section 35(10) of the 2018 Act, for maintaining an individual development plan for a child who has become looked after by the local authority (“the transfer”);
- (b) a local authority becomes responsible, by virtue of section 35(12) and (13) of the 2018 Act, for maintaining an individual development plan for a child or young person who has ceased to be a looked after child (“the transfer”).

(2) For the purposes of determining the review period within which the local authority must, under section 24(1) (for a case within paragraph (1)(a)) or 23(1) (for a case within paragraph (1)(b)) of the 2018 Act, first review the plan following the transfer, sections 23 and 24 of that Act apply (despite section 23(12) for a case within paragraph (1)(a)) as they did immediately before the transfer.

### **Securing other provision where transfer of responsibility for plan**

**17.**—(1) Paragraphs (2) and (3) apply where—

- (a) following a transfer of responsibility for maintaining an individual development plan under section 35 of the 2018 Act, a local authority is under a duty to secure a place at a particular school or other institution described in the plan in accordance with section 14(6) or 19(4) of that Act, and
- (b) in light of the circumstances which have given rise to the transfer, it is no longer practicable for the child or young person to attend the school or other institution.

(2) The local authority's duty to secure the place at the school or other institution does not apply until such time as it is possible to revise the plan except where the authority arranges board and lodging under paragraph (3).

(3) Caiff yr awdurdod lleol drefnu bwyd a llety er mwyn galluogi'r plentyn neu'r person ifanc i barhau i fynyachu'r ysgol neu'r sefydliad arall hyd nes ei bod yn bosibl diwygio'r cynllun datblygu unigol.

#### *Personau sy'n cael eu cadw'n gaeth*

### **Yr angen am gynllun datblygu unigol ar gyfer person sy'n cael ei gadw'n gaeth ar ôl ei ryddhau**

**18.**—(1) Mae'r rheoliad hwn yn gymwys at ddiben penderfyniad awdurdod cartref o dan adran 40(2)(b) o Ddeddf 2018.

(2) Mae angen llunio cynllun datblygu unigol ar gyfer person sy'n cael ei gadw'n gaeth ac eithrio—

- (a) pan fo'n debygol y bydd y person sy'n cael ei gadw'n gaeth wedi cyrraedd 25 oed cyn cael ei ryddhau o gael ei gadw'n gaeth, neu
- (b) pan fo'n annhebygol, yn achos person ifanc sy'n cael ei gadw'n gaeth, y bydd gan y person anghenion rhesymol am addysg neu hyfforddiant pan gaiff ei ryddhau.

(3) At ddibenion paragraff (2)(b), mae gan berson ifanc anghenion rhesymol am addysg neu hyfforddiant o dan bob un o'r amgylchiadau a ganlyn—

- (a) mae'r person ifanc wedi ei gofrestru'n ddisgybl neu wedi ymrestru'n fyfyrwr mewn ysgol a gynhelir, sefydliad yn y sector addysg bellach neu Academi (pa un a yw'r ysgol a gynhelir neu'r sefydliad yn y sector addysg bellach yng Nghymru neu Loegr);
- (b) mae gan y person ifanc anghenion rhesymol am addysg neu hyfforddiant o dan reoliad 9(1);
- (c) mae awdurdod lleol wedi penderfynu o dan reoliad 9(2) fod gan y person ifanc anghenion rhesymol am addysg neu hyfforddiant.

(4) Pan fo'r awdurdod cartref yn penderfynu na fydd angen cynnal cynllun datblygu unigol ar gyfer y person sy'n cael ei gadw'n gaeth pan gaiff y person hwnnw ei ryddhau o gael ei gadw'n gaeth, rhaid i'r awdurdod cartref wneud y penderfyniad hwnnw a rhoi'r hysbysiad ohono o dan adran 40(4) o Ddeddf 2018 yn brydlon ac mewn unrhyw achos cyn diwedd y cyfnod o 12 wythnos sy'n dechrau â thrannoeth y diwrnod—

- (a) yn achos plentyn, y tynnwyd sylw'r awdurdod cartref, neu yr ymddangosai i'r awdurdod cartref fel arall, y gall fod gan y plentyn anghenion dysgu ychwanegol;

(3) The local authority may arrange board and lodging to enable the child or young person to continue to attend the school or other institution until such time as it is possible to revise the individual development plan.

#### *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) yn achos person ifanc, y cydsyniodd y person ifanc i'r penderfyniad gael ei wneud o ran a oes gan y person ifanc anghenion dysgu ychwanegol.

(5) Nid oes angen i'r awdurdod cartref gydymffurfio â'r gofyniad i wneud y penderfyniad hwnnw a rhoi'r hysbysiad cyn diwedd y cyfnod o 12 wythnos os yw'n anymarferol gwneud hynny oherwydd amgylchiadau y tu hwnt i'w reolaeth.

(6) Wrth hysbysu person sy'n cael ei gadw'n gaeth, ac os yw'r person sy'n cael ei gadw'n gaeth yn blentyn, riant y plentyn, o dan adran 40(4) o Ddeddf 2018, na fydd angen cynllun datblygu unigol, rhaid i'r awdurdod cartref hefyd roi—

- (a) manylion cyswllt ar gyfer yr awdurdod cartref;
- (b) gwybodaeth am sut i gael mynediad at drefniadau'r awdurdod cartref o dan adran 9 o Ddeddf 2018 ar gyfer darparu i bobl wybodaeth a chynghor ynghylch anghenion dysgu ychwanegol a'r system y gwneir darpariaeth ar ei chyfer gan Ran 2 o'r Ddeddf honno;
- (c) manylion ynghylch trefniadau'r awdurdod cartref ar gyfer osgoi a datrys anghytundebau o dan adran 68 o Ddeddf 2018;
- (d) manylion ynghylch trefniadau'r awdurdod cartref ar gyfer darparu gwasanaethau eirioli annibynnol o dan adran 69 o Ddeddf 2018;
- (e) gwybodaeth am yr hawl i apelio i'r Tribiwnlys Addysg o dan adran 72 o Ddeddf 2018 yn erbyn y penderfyniad.

#### Diwygiadau i adran 44 o Ddeddf 2018

**19.**—(1) Mae adran 44 o Ddeddf 2018 (darpariaethau penodol Rhan 2 nad ydynt i fod yn gymwys i blant a phersonau ifanc sy'n cael eu cadw'n gaeth) wedi ei diwygio fel a ganlyn—

- (a) yn is-adran (1), ar ôl paragraff (c) mewnosoder—  
“(d) corff GIG.”;
- (b) yn is-adran (2), ar ôl paragraff (d) mewnosoder—  
“(da) adran 20(5)(a) ac (c) (dyletswydd corff GIG i sicrhau triniaeth neu wasanaeth ac i gymryd pob cam rhesymol i'w sicrhau yn Gymraeg);”.

- (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);”.

## **Dehongli rheoliadau 20 i 25 ac Atodlen 2**

**20.**—(1) At ddibenion y rheoliad hwn, rheoliadau 21 i 25 ac Atodlen 2—

mae i “awdurdod lleol perthnasol” (“*relevant local authority*”) mewn perthynas â phlentyn neu berson ifanc sy'n cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983 yr ystyr a roddir yn rheoliad 21;

ystyr “dechrau'r cyfnod o gadw'n gaeth mewn ysbyty” (“*beginning of the detention in hospital*”) mewn perthynas â phlentyn neu berson ifanc sy'n cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983 yw—

- (a) dechrau'r cyfnod o gadw'n gaeth mewn ysbyty o dan y Rhan honno, neu
- (b) pan fo cyfnod o gadw'n gaeth mewn lle diogel yn unol â chyfarwyddydau llys o dan y Rhan honno yn union cyn y cyfnod hwnnw, dechrau'r cyfnod o gadw'n gaeth yn y lle diogel;

ystyr “Deddf 1983” (“*the 1983 Act*”) yw Deddf Iechyd Meddwl 1983(1).

(2) Mae rheoliad 2(2) yn ymdrin ag ystyr cyfeiriadau at berson sy'n ddarostyngedig i orchymyn cadw.

(3) At ddibenion y diffiniad o “dechrau'r cyfnod o gadw'n gaeth mewn ysbyty” ym mharagraff (1), nid yw'n berthnasol a yw'r cyfnod cadw yn unol ag un gorchymyn ai peidio.

## **Awdurdod lleol perthnasol**

**21.**—(1) Pan oedd y plentyn neu'r person ifanc yn berson a oedd yn cael ei gadw'n gaeth yn union cyn dechrau'r cyfnod o gadw'r plentyn neu'r person ifanc yn gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983, ystyr “yr awdurdod lleol perthnasol” yw awdurdod cartref y plentyn neu'r person ifanc.

(2) Pan nad oedd y plentyn neu'r person ifanc yn berson a oedd yn cael ei gadw'n gaeth yn union cyn dechrau'r cyfnod o gadw'r plentyn neu'r person ifanc yn gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983—

## **Interpretation of regulations 20 to 25 and Schedule 2**

**20.**—(1) For the purposes of this regulation, regulations 21 to 25 and Schedule 2—

“the 1983 Act” (“*Deddf 1983*”) means the Mental Health Act 1983(1);

“beginning of the detention in hospital” (“*dechrau'r cyfnod o gadw'n gaeth mewn ysbyty*”) in relation to a child or young person detained in hospital under Part 3 of the 1983 Act means—

- (a) the beginning of the period of detention in hospital under that Part, or
- (b) where that period is immediately preceded by detention in a place of safety in accordance with court directions under that Part, the beginning of the period of detention in the place of safety;

“relevant local authority” (“*awdurdod lleol perthnasol*”) in relation to a child or young person detained in hospital under Part 3 of the 1983 Act has the meaning given in regulation 21.

(2) Regulation 2(2) deals with the meaning of references to a person being subject to a detention order.

(3) For the purposes of the definition of “beginning of the detention in hospital” in paragraph (1), it is immaterial whether or not the period of detention is pursuant to a single order.

## **Relevant local authority**

**21.**—(1) Where the child or young person was a detained person immediately before the beginning of the child or young person's detention in hospital under Part 3 of the 1983 Act, “the relevant local authority” means the child or young person's home authority.

(2) Where the child or young person was not a detained person immediately before the beginning of the child or young person's detention in hospital under Part 3 of the 1983 Act—

(1) 1983 p. 20. Mewnsoedd adran 46 o Ddeddf (Dedfrydau) Troseddau 1997 (p. 43) adrannau 45A a 45B yn Rhan 3. Mae diwygiadau eraill i Ran 3 nad ydynt yn berthnasol.

(1) 1983 c. 20. The Crime (Sentences) Act 1997 (c. 43), section 46 inserted sections 45A and 45B into Part 3. There are other amendments to Part 3 which are not relevant.

- (a) os oedd y plentyn neu'r person ifanc yn derbyn gofal yn union cyn dechrau'r cyfnod cadw hwnnw neu os yw wedi bod yn derbyn gofal ar unrhyw adeg ers hynny, ystyr yr "awdurdod lleol perthnasol" yw'r awdurdod lleol yng Nghymru neu Loegr sy'n gofalu am y plentyn neu'r person ifanc, neu sydd wedi gofalu am y plentyn neu'r person ifanc ddiweddaraf;
- (b) fel arall ystyr yr "awdurdod lleol perthnasol" yw'r awdurdod lleol y mae'r plentyn neu'r person ifanc yn preswyllo fel arfer yn ei ardal.

(3) Ond nid yw awdurdod lleol yn Lloegr yn awdurdod lleol perthnasol.

(4) At ddiben paragraff (1), mae'r diffiniadau o "awdurdod cartref" a "dechrau'r cyfnod o gadw person yn gaeth" (gweler adran 39 o Ddeddf 2018 sy'n cymhwyso ystyron a roddir yn adran 562J o Ddeddf Addysg 1996(1) yn ddarostyngedig, yn achos "awdurdod cartref", i unrhyw reoliadau o dan adran 39(2)) yn gymwys fel pe bai'r cyfnod o gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983 yn parhau i fod yn gyfnod o gadw'n gaeth mewn llety ieuencid perthnasol.

(5) At ddiben paragraff (2), mae plentyn neu berson ifanc yn derbyn gofal gan awdurdod lleol os yw'r plentyn neu berson ifanc yn derbyn gofal gan awdurdod lleol at ddibenion Rhan 6 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(2) neu gan awdurdod lleol yn Lloegr at ddibenion Deddf Plant 1989(3).

(6) Wrth benderfynu at ddiben paragraff (2) lle y mae plentyn neu berson ifanc yn preswyllo fel arfer, mae unrhyw gyfnod pan yw'r person yn ddarostyngedig i orchymyn cadw i'w ddiystyru.

- (a) if the child or young person was looked after immediately before the beginning of that detention or has been looked after at any time since then, the "relevant local authority" means the local authority in Wales or England that looks after, or that most recently looked after, the child or young person;
- (b) otherwise the "relevant local authority" means the local authority in whose area the child or young person is ordinarily resident.

(3) But a local authority in England is not a relevant local authority.

(4) For the purpose of paragraph (1), the definitions of "home authority" and "the beginning of the detention" (see section 39 of the 2018 Act applying meanings given in section 562J of the Education Act 1996(1) subject, in the case of "home authority" to any regulations under section 39(2)) apply as if the detention in hospital under Part 3 of the 1983 Act continues to be detention in relevant youth accommodation.

(5) For the purpose of paragraph (2), a child or young person is looked after by a local authority if the child or young person is looked after by a local authority for the purposes of Part 6 of the Social Services and Well-being (Wales) Act 2014(2) or by a local authority in England for the purposes of the Children Act 1989(3).

(6) In determining for the purpose of paragraph (2) where a child or young person is ordinarily resident, any period when the person is subject to a detention order is to be disregarded.

(1) 1996 p. 56. Mewnosodwyd adran 562J gan Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22), adran 50. Mae diwygiadau perthnasol iddi wedi eu gwneud gan O.S. 2010/1158, Atodlen 2, Rhan 1, paragraff 16(1), (2) a (4).

(2) 2014 decc 4. Mae adran 74 yn darparu ar gyfer dehongli cyfeiriadau yn y Ddeddf honno at blentyn sy'n derbyn gofal gan awdurdod lleol.

(3) 1989 p. 41. Mae adrannau 22(1) a 105(4) yn darparu ar gyfer dehongli cyfeiriadau at blentyn sy'n derbyn gofal. Mae adran 22(1) wedi ei diwygio gan Ddeddf Llywodraeth Leol 2000 (p. 22), Atodlen 5, paragraff 19, Deddf Plant (Ymadael â Gofal) 2000 (p. 35), adran 2(1) a (2) ac O.S. 2016/413, rheoliadau 55 a 69(a). Amnewidiwyd adran 105(4) gan O.S. 2016/413, rheoliadau 55 a 106(b).

(1) 1996 c. 56. Section 562J was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 50. Relevant amendments to it are made by S.I. 2010/1158, Schedule 2, Part 1, paragraph 16(1), (2) and (4).

(2) 2014 anaw 4. Section 74 provides for the interpretation of references in that Act to a child who is looked after by a local authority.

(3) 1989 c. 41. Sections 22(1) and 105(4) provide for the interpretation of references to a child who is looked after. Section 22(1) has been amended by the Local Government Act 2000 (c. 22), Schedule 5, paragraph 19, the Children (Leaving Care) Act 2000 (c. 35), section 2(1) and (2) and S.I. 2016/413, regulations 55 and 69(a). Section 105(4) was substituted by S.I. 2016/413, regulations 55 and 106(b).

**Plentyn neu berson ifanc a chanddo gynllun datblygu unigol cyn cael ei gadw'n gaeth mewn ysbyty**

22.—(1) Mae'r rheoliad hwn yn gymwys—

- (a) pan fo plentyn neu berson ifanc yn ddarostyngedig i orchymyn cadw,
- (b) pan fo'r plentyn neu'r person ifanc yn cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983, ac
- (c) pan oedd cynllun datblygu unigol yn cael ei gynnal neu ei gadw ar gyfer y plentyn neu'r person ifanc o dan Ran 2 o Ddeddf 2018 yn union cyn dechrau'r cyfnod o gadw'n gaeth mewn ysbyty.

(2) Rhaid i'r awdurdod lleol perthnasol ar gyfer y plentyn neu'r person ifanc gynnal y cynllun datblygu unigol; ac mae'r cynllun i'w drin fel pe bai'n cael ei gynnal o dan adran 14 o Ddeddf 2018 at ddibenion Rhan 2 o'r Ddeddf honno, ac unrhyw ddarpariaeth a ddisgrifir yn y cynllun yn unol ag adran 19(4) neu 40(7) o Ddeddf 2018 yn cael ei thrin fel pe bai'n cael ei disgrifio yn unol ag adran 14(6).

(3) Ond nid yw'r ddyletswydd i gynnal y cynllun ym mharagraff (2) yn gymwys mewn perthynas â chynllun a oedd yn cael ei gynnal neu ei gadw gan gorff llywodraethu neu awdurdod lleol ac eithrio'r awdurdod lleol perthnasol oni thynnir sylw'r awdurdod lleol perthnasol at y ffaith bod y cynllun yn cael ei gynnal neu ei gadw.

(4) Mae Deddf 2018 a darpariaethau eraill o dan Ran 2 o'r Ddeddf honno (gan gynnwys y Rheoliadau hyn) yn gymwys gyda'r addasiadau y darperir ar eu cyfer yn Atodlen 2 mewn perthynas â'r plentyn neu'r person ifanc tra bo'r plentyn hwnnw neu'r person ifanc hwnnw yn ddarostyngedig i orchymyn cadw ac yn cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983.

(5) Pan oedd y cynllun, yn union cyn dechrau'r cyfnod o gadw'n gaeth mewn ysbyty, yn cael ei gadw o dan Ran 2 o Ddeddf 2018, rhaid i'r awdurdod lleol perthnasol—

- (a) rhoi gwybod i'r plentyn neu'r person ifanc ei fod wedi dod yn gyfrifol am gynnal y cynllun,
- (b) os yw'r cynllun ar gyfer plentyn, roi gwybod i riant y plentyn, ac
- (c) adolygu'r cynllun,

(ar gyfer pan oedd y cynllun yn cael ei gynnal gan gorff arall yn union cyn dechrau'r cyfnod o gadw'n gaeth mewn ysbyty, gweler adrannau 22(2) a 23 o Ddeddf 2018 fel y'u cymhwysir gan y rheoliad hwn).

**Child or young person with individual development plan prior to detention in hospital**

22.—(1) This regulation applies where—

- (a) a child or young person is subject to a detention order,
- (b) the child or young person is detained in hospital under Part 3 of the 1983 Act, and
- (c) immediately before the beginning of the detention in hospital, an individual development plan was being maintained or kept for the child or young person under Part 2 of the 2018 Act.

(2) The relevant local authority for the child or young person must maintain the individual development plan; and the plan is to be treated as being maintained under section 14 of the 2018 Act for the purposes of Part 2 of that Act, with any provision described in the plan in accordance with section 19(4) or 40(7) of the 2018 Act being treated as described in accordance with section 14(6).

(3) But the duty to maintain the plan in paragraph (2) does not apply in relation to a plan that was being maintained or kept by a governing body or a local authority other than the relevant local authority unless the fact that the plan was being maintained or kept is brought to the attention of the relevant local authority.

(4) The 2018 Act and other provisions under Part 2 of that Act (including these Regulations) apply with the modifications provided for in Schedule 2 in relation to the child or young person while that child or young person is subject to a detention order and detained in hospital under Part 3 of the 1983 Act.

(5) Where, immediately before the beginning of the detention in hospital, the plan was being kept under Part 2 of the 2018 Act, the relevant local authority must—

- (a) inform the child or young person that it has become responsible for maintaining the plan,
- (b) if the plan is for a child, inform the child's parent, and
- (c) review the plan,

(for where the plan was being maintained by another body immediately before the beginning of the detention in hospital, see sections 22(2) and 23 of the 2018 Act as applied by this regulation).



(6) Rhaid i'r awdurdod lleol perthnasol gwblhau'r adolygiad o'r cynllun yn brydlon ac mewn unrhyw achos o fewn y cyfnod o 7 wythnos sy'n dechrau â thrannoeth y diwrnod y mae'r plentyn neu'r person ifanc yn cael ei gadw'n gaeth mewn ysbyty.

(7) Nid oes angen i'r awdurdod lleol perthnasol gwblhau'r adolygiad o fewn y cyfnod hwnnw o 7 wythnos os yw'n anymarferol gwneud hynny oherwydd amgylchiadau y tu hwnt i reolaeth yr awdurdod.

(8) At ddibenion paragraff (6), mae adolygiad wedi ei gwblhau pan yw'r awdurdod lleol perthnasol yn rhoi, o dan Ran 2 o Ddeddf 2018, unrhyw un neu ragor o'r canlynol—

- (a) copi o'r cynllun datblygu unigol diwygiedig;
- (b) hysbysiad o benderfyniad na ddylid diwygio'r cynllun;
- (c) hysbysiad o benderfyniad nad oes gan y plentyn neu'r person ifanc anghenion dysgu ychwanegol mwyach;
- (d) os yw'r person yn berson ifanc, hysbysiad o benderfyniad nad oes angen cynnal y cynllun mwyach i ddiwallu anghenion rhesymol y person ifanc am addysg neu hyfforddiant.

#### **Plentyn neu berson ifanc heb gynllun datblygu unigol cyn cael ei gadw'n gaeth mewn ysbyty**

23.—(1) Mae'r rheoliad hwn yn gymwys—

- (a) pan fo plentyn yn ddarostyngedig i orchymyn cadw,
- (b) pan fo'r plentyn yn cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983, ac
- (c) pan nad oedd cynllun datblygu unigol yn cael ei gynnal na'i gadw ar gyfer y plentyn o dan Ran 2 o Ddeddf 2018 yn union cyn dechrau'r cyfnod o gadw'n gaeth mewn ysbyty.

(2) Mae'r rheoliad hwn hefyd yn gymwys—

- (a) pan, ar neu ar ôl 1 Medi 2022—
  - (i) bo person ifanc yn ddarostyngedig i orchymyn cadw,
  - (ii) bo'r person ifanc yn cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983, a
- (b) pan nad oedd cynllun datblygu unigol yn cael ei gynnal na'i gadw ar gyfer y person ifanc o dan Ran 2 o Ddeddf 2018 yn union cyn dechrau'r cyfnod o gadw'n gaeth mewn ysbyty.

(6) The relevant local authority must complete the review of the plan promptly and in any event within the period of 7 weeks starting with the day after the day on which the child or young person is detained in hospital.

(7) The relevant local authority need not complete the review within that 7 week period if it is impractical to do so due to circumstances beyond the authority's control.

(8) For the purposes of paragraph (6) a review is completed when the relevant local authority gives, under Part 2 of the 2018 Act, any of the following—

- (a) a copy of the revised individual development plan;
- (b) notification of a decision that the plan should not be revised;
- (c) notification of a decision that the child or young person no longer has additional learning needs;
- (d) if the person is a young person, notification of a decision that it is no longer necessary to maintain the plan to meet the young person's reasonable needs for education or training.

#### **Child or young person without individual development plan prior to detention in hospital**

23.—(1) This regulation applies where—

- (a) a child is subject to a detention order,
- (b) the child is detained in hospital under Part 3 of the 1983 Act, and
- (c) immediately before the beginning of the detention in hospital, an individual development plan was neither being maintained nor being kept for the child under Part 2 of the 2018 Act.

(2) This regulation also applies where—

- (a) on or after 1 September 2022—
  - (i) a young person is subject to a detention order,
  - (ii) the young person is detained in hospital under Part 3 of the 1983 Act, and
- (b) immediately before the beginning of the detention in hospital, an individual development plan was neither being maintained nor being kept for the young person under Part 2 of the 2018 Act.

(3) Mae Deddf 2018 a darpariaethau eraill o dan Ran 2 o'r Ddeddf honno (gan gynnwys y Rheoliadau hyn) yn gymwys gyda'r addasiadau y darperir ar eu cyfer yn Atodlen 2 mewn perthynas â'r plentyn neu'r person ifanc tra bo'r plentyn hwnnw neu'r person ifanc hwnnw yn ddarostyngedig i orchymyn cadw ac yn cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983 (yn benodol, gweler adran 13).

### **Rhyddhau plentyn neu berson ifanc sy'n cael ei gadw'n gaeth mewn ysbyty**

**24.—**(1) Mae'r rheoliad hwn yn gymwys—

- (a) pan fo plentyn neu berson ifanc sy'n ddarostyngedig i orchymyn cadw ac yn cael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983 yn cael ei ryddhau o gael ei gadw'n gaeth,
- (b) pan oedd awdurdod lleol perthnasol, yn union cyn rhyddhau'r plentyn neu'r person ifanc, yn cynnal cynllun datblygu unigol o dan adran 14 o Ddeddf 2018 ar gyfer y plentyn neu'r person ifanc,
- (c) pan fo awdurdod lleol, ar y dyddiad rhyddhau, yn gyfrifol am y plentyn neu'r person ifanc, a
- (d) pan na fo'r person a ryddheir, yn union wrth ei ryddhau, yn blentyn sy'n derbyn gofal gan awdurdod lleol (ar gyfer pan fo plentyn yn derbyn gofal gan awdurdod lleol yn union wrth ei ryddhau, gweler adran 35(9) a (10) o Ddeddf 2018).

(2) Rhaid i'r awdurdod lleol a grybwyllir ym mharagraff (1)(c) gynnal y cynllun datblygu unigol; ac mae'r cynllun i'w drin fel pe bai'n cael ei gynnal o dan adran 14 o Ddeddf 2018 at ddibenion Rhan 2 o'r Ddeddf honno.

### **Plentyn neu berson ifanc yn trosglwyddo o gael ei gadw'n gaeth mewn ysbyty i gael ei gadw'n gaeth mewn llety ieuencid perthnasol**

**25.—**(1) Mae'r rheoliad hwn yn gymwys pan fo plentyn neu berson ifanc sy'n ddarostyngedig i orchymyn cadw yn trosglwyddo o gael ei gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983 i gael ei gadw'n gaeth mewn llety ieuencid perthnasol yng Nghymru neu Loegr (ar gyfer pan fo plentyn neu berson ifanc o'r fath yn trosglwyddo i gael ei gadw'n gaeth mewn llety ac eithrio llety ieuencid perthnasol yng Nghymru neu Loegr, gweler adran 562 o Ddeddf Addysg 1996(1) ac adran 44 o Ddeddf 2018).

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(1) 1996 p. 56. Mae adran 562 wedi ei diwygio gan Ddeddf Cyfiawnder Troseddol a Mewnffudo 2008 (p. 4), Atodlen 4, Rhan 1, paragraff 47, Deddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22), adran 49, O.S. 2010/1158, Atodlen 2, Rhan 1, paragraff 7(1) i (3) ac O.S. 2016/413, rheoliadau 153 a 157.

(3) The 2018 Act and other provisions under Part 2 of that Act (including these Regulations) apply with the modifications provided for in Schedule 2 in relation to the child or young person while that child or young person is subject to a detention order and detained in hospital under Part 3 of the 1983 Act (in particular, see section 13).

### **Release of child or young person detained in hospital**

**24.—**(1) This regulation applies where—

- (a) a child or young person subject to a detention order and detained in hospital under Part 3 of the 1983 Act, is released from detention,
- (b) immediately before release, a relevant local authority was maintaining an individual development plan under section 14 of the 2018 Act for the child or young person,
- (c) on the release date, a local authority is responsible for the child or young person, and
- (d) immediately on release, the person released is not a child who is looked after by a local authority (for where a child is looked after by a local authority immediately on release, see section 35(9) and (10) of the 2018 Act).

(2) The local authority mentioned in paragraph (1)(c) must maintain the individual development plan; and the plan is to be treated as maintained under section 14 of the 2018 Act for the purposes of Part 2 of that Act.

### **Child or young person transfers from hospital detention to detention in relevant youth accommodation**

**25.—**(1) This regulation applies where a child or young person subject to a detention order transfers from detention in hospital under Part 3 of the 1983 Act to detention in relevant youth accommodation in Wales or England (for where such a child or young person transfers to detention in accommodation other than relevant youth accommodation in Wales or England, see section 562 of the Education Act 1996(1) and section 44 of the 2018 Act).

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(1) 1996 c. 56. Section 562 has been amended by the Criminal Justice and Immigration Act 2008 (c. 4), Schedule 4, Part 1, paragraph 47, the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 49, S.I. 2010/1158, Schedule 2, Part 1, paragraph 7(1) to (3) and S.I. 2016/413, regulations 153 and 157.

(2) Wrth gymhwyso'r diffiniad o "beginning of the detention" (yn adran 562J o Ddeddf Addysg 1996), at ddibenion adran 42 o Ddeddf 2018, nid yw'r cyfnod parhaus y cyfeirir ato yn cynnwys y cyfnod o gadw'n gaeth mewn ysbyty o dan Ran 3 o Ddeddf 1983 nac unrhyw gyfnod cyn y cyfnod hwnnw.

## RHAN 3

### SWYDDOGAETHAU ATODOL

*Cydlynnydd anghenion dysgu ychwanegol*

#### Dehongli rheoliadau 26 i 30

26. Yn y rheoliad hwn a rheoliadau 27 i 30—

ystyr "athro neu athrawes addysg bellach" ("*further education teacher*") yw person sydd wedi ei gofrestru â Chyngor y Gweithlu Addysg yng nghategori athro neu athrawes addysg bellach fel y'i disgrifir yn nhabl 1 o Atodlen 2 i Ddeddf 2014;

ystyr "athro neu athrawes ysgol" ("*school teacher*") yw person sydd wedi ei gofrestru â Chyngor y Gweithlu Addysg yng nghategori athro neu athrawes ysgol fel y'i disgrifir yn nhabl 1 o Atodlen 2 i Ddeddf 2014 ac nid yw'n cynnwys person sydd wedi ei gofrestru ar sail dros dro o dan adran 9(5) o'r Ddeddf honno;

ystyr "cydlynnydd anghenion addysgol arbennig" ("*special educational needs co-ordinator*") yw person sydd â chyfrifoldeb am gydlynu'r ddarpariaeth ar gyfer disgyblion y nodir bod ganddynt anghenion addysgol arbennig o dan Ran 4 o Ddeddf Addysg 1996(1);

ystyr "Deddf 2014" ("*the 2014 Act*") yw Deddf Addysg (Cymru) 2014(2);

ystyr "gwasanaethau perthnasol" ("*relevant services*") yw—

- (a) cyngor neu gymorth mewn perthynas â darpariaeth ddysgu ychwanegol,
- (b) rheoli darpariaeth ddysgu ychwanegol,
- (c) asesu anghenion dysgu ychwanegol,
- (d) cyngor neu gymorth mewn perthynas ag anghenion dysgu ychwanegol, ac
- (e) rheoli disgyblion neu fyfyrwyr (yn ôl y digwydd) ag anghenion dysgu ychwanegol;

(2) In the application of the definition of "beginning of the detention" (in section 562J of the Education Act 1996) for the purposes of section 42 of the 2018 Act, the continuous period referred to does not include the period of detention in hospital under Part 3 of the 1983 Act nor any period before it.

## PART 3

### SUPPLEMENTARY FUNCTIONS

*Additional learning needs co-ordinator*

#### Interpretation of regulations 26 to 30

26. In this regulation and regulations 27 to 30—

"the 2014 Act" ("*Deddf 2014*") means the Education (Wales) Act 2014(1);

"further education learning support worker" ("*gweithiwr cymorth dysgu mewn addysg bellach*") means a person who is registered with the Education Workforce Council in the category of further education learning support worker as described in table 1 of Schedule 2 to the 2014 Act;

"further education teacher" ("*athro neu athrawes addysg bellach*") means a person who is registered with the Education Workforce Council in the category of further education teacher as described in table 1 of Schedule 2 to the 2014 Act;

"relevant services" ("*gwasanaethau perthnasol*") means—

- (a) advice or assistance in relation to additional learning provision,
- (b) the management of additional learning provision,
- (c) the assessment of additional learning needs,
- (d) advice or assistance in relation to additional learning needs, and
- (e) the management of pupils or students (as the case may be) with additional learning needs;

"school learning support worker" ("*gweithiwr cymorth dysgu mewn ysgol*") means a person who is registered with the Education Workforce Council in the category of school learning support worker as described in table 1 of Schedule 2 to the 2014 Act;

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(1) 1996 p. 56.

(2) 2014 dccc 5.

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(1) 2014 anaw 5.

ystyr “gweithiwr cymorth dysgu mewn addysg bellach” (“*further education learning support worker*”) yw person sydd wedi ei gofrestru â Chyngor y Gweithlu Addysg yng nghategori gweithiwr cymorth dysgu mewn addysg bellach fel y’i disgrifir yn nhabl 1 o Atodlen 2 i Ddeddf 2014; ystyr “gweithiwr cymorth dysgu mewn ysgol” (“*school learning support worker*”) yw person sydd wedi ei gofrestru â Chyngor y Gweithlu Addysg yng nghategori gweithiwr cymorth dysgu mewn ysgol fel y’i disgrifir yn nhabl 1 o Atodlen 2 i Ddeddf 2014.

### **Cymhwyster neu brofiad rhagnodedig cydlynnydd anghenion dysgu ychwanegol mewn ysgol**

27. Ni chaiff corff llywodraethu ysgol ddynodi person yn gydlynnydd anghenion dysgu ychwanegol o dan adran 60(2) o Ddeddf 2018 ond os yw’r person hwnnw—

- (a) yn athro neu athrawes ysgol, neu
- (b) yn gydlynnydd anghenion addysgol arbennig o fewn yr ysgol yn union cyn 4 Ionawr 2021(1).

### **Cymhwyster rhagnodedig cydlynnydd anghenion dysgu ychwanegol mewn sefydliad yn y sector addysg bellach**

28. Ni chaiff corff llywodraethu sefydliad yn y sector addysg bellach ddynodi person yn gydlynnydd anghenion dysgu ychwanegol o dan adran 60(2) o Ddeddf 2018 ond os yw’r person hwnnw yn athro neu athrawes addysg bellach.

### **Swyddogaethau cydlynnydd anghenion dysgu ychwanegol mewn ysgol**

29. Y tasgau y mae cydlynnydd anghenion dysgu ychwanegol mewn ysgol yn gyfrifol am eu cyflawni, neu am sicrhau eu bod yn cael eu cyflawni, yw—

- (a) nodi anghenion dysgu ychwanegol disgybl a chydlynu’r gwaith o wneud darpariaeth ddysgu ychwanegol sy’n diwallu anghenion dysgu ychwanegol disgybl,
- (b) sicrhau gwasanaethau perthnasol a fydd yn cefnogi darpariaeth ddysgu ychwanegol disgybl fel y bo’n ofynnol,

“school teacher” (“*athro neu athrawes ysgol*”) means a person who is registered with the Education Workforce Council in the category of school teacher as described in table 1 of Schedule 2 to the 2014 Act and does not include a person registered on a provisional basis under section 9(5) of that Act;

“special educational needs co-ordinator” (“*cydlynnydd anghenion addysgol arbennig*”) means a person having responsibility for co-ordinating the provision for pupils identified as having special educational needs under Part 4 of the Education Act 1996(1).

### **Prescribed qualification or experience of an additional learning needs co-ordinator at a school**

27. The governing body of a school may designate a person as an additional learning needs co-ordinator under section 60(2) of the 2018 Act only if that person—

- (a) is a school teacher, or
- (b) was a special educational needs co-ordinator within the school immediately prior to 4 January 2021(2).

### **Prescribed qualification of an additional learning needs co-ordinator at an institution in the further education sector**

28. The governing body of an institution in the further education sector may designate a person as an additional learning needs co-ordinator under section 60(2) of the 2018 Act only if that person is a further education teacher.

### **Additional learning needs co-ordinator functions at a school**

29. The tasks an additional learning needs co-ordinator at a school is responsible for carrying out, or ensuring are carried out, are—

- (a) identifying a pupil’s additional learning needs and co-ordinating the making of additional learning provision that meets a pupil’s additional learning needs,
- (b) securing relevant services that will support a pupil’s additional learning provision as required,

(1) Daeth Rheoliadau Cydlynnydd Anghenion Dysgu Ychwanegol (Cymru) 2020 (O.S. 2020/1351 (Cy. 299)) i rym ar 4 Ionawr 2021.

(1) 1996 c. 56.  
(2) The Additional Learning Needs Co-ordinator (Wales) Regulations 2020 (S.I. 2020/1351 (W. 299)) came into force on 4 January 2021.

- (c) cadw cofnodion o benderfyniadau ynghylch anghenion dysgu ychwanegol a chynlluniau datblygu unigol,
- (d) hybu cynhwysiant disgybl ag anghenion dysgu ychwanegol yn yr ysgol a'i fynediad at gwricwlwm, cyfleusterau a gweithgareddau allgyrsiol yr ysgol,
- (e) monitro effeithiolrwydd unrhyw ddarpariaeth ddysgu ychwanegol a wneir,
- (f) cynghori'r athrawon ysgol yn yr ysgol ynghylch y dulliau addysgu gwahaniaethol sy'n briodol ar gyfer disgyblion unigol ag anghenion dysgu ychwanegol,
- (g) goruchwyllo a hyfforddi gweithwyr cymorth dysgu mewn ysgol sy'n gweithio gyda disgyblion ag anghenion dysgu ychwanegol, ac
- (h) cyfrannu at hyfforddiant mewn swydd ar gyfer athrawon ysgol yn yr ysgol er mwyn cynorthwyo'r cydlynnydd anghenion dysgu ychwanegol i gyflawni'r tasgau y cyfeirir atynt ym mharagraffau (a) i (e).

### **Swyddogaethau cydlynnydd anghenion dysgu ychwanegol mewn sefydliad yn y sector addysg bellach**

**30.** Y tasgau y mae cydlynnydd anghenion dysgu ychwanegol mewn sefydliad yn y sector addysg bellach yn gyfrifol am eu cyflawni, neu am sicrhau eu bod yn cael eu cyflawni, yw—

- (a) nodi anghenion dysgu ychwanegol myfyriwr a chydlynu'r gwaith o wneud darpariaeth ddysgu ychwanegol sy'n diwallu anghenion dysgu ychwanegol myfyriwr,
- (b) sicrhau gwasanaethau perthnasol a fydd yn cefnogi darpariaeth ddysgu ychwanegol myfyriwr fel y bo'n ofynnol,
- (c) cadw cofnodion o benderfyniadau ynghylch anghenion dysgu ychwanegol a chynlluniau datblygu unigol,
- (d) hybu cynhwysiant myfyriwr ag anghenion dysgu ychwanegol yn y sefydliad yn y sector addysg bellach a'i fynediad at gwricwlwm, cyfleusterau a gweithgareddau allgyrsiol y sefydliad yn y sector addysg bellach,
- (e) monitro effeithiolrwydd unrhyw ddarpariaeth ddysgu ychwanegol a wneir,
- (f) cynghori'r athrawon yn y sefydliad yn y sector addysg bellach ynghylch y dulliau addysgu gwahaniaethol sy'n briodol ar gyfer myfyrwyr unigol ag anghenion dysgu ychwanegol,

### **Additional learning needs co-ordinator functions at an institution in the further education sector**

**30.** The tasks an additional learning needs co-ordinator at an institution in the further education sector is responsible for carrying out, or ensuring are carried out, are—

- (a) identifying a student's additional learning needs and co-ordinating the making of additional learning provision that meets a student's additional learning needs,
- (b) securing relevant services that will support a student's additional learning provision as required,
- (c) keeping records of decisions about additional learning needs and individual development plans,
- (d) promoting a student with additional learning needs' inclusion in the institution in the further education sector and access to the institution in the further education sector's curriculum, facilities and extra-curricular activities,
- (e) monitoring the effectiveness of any additional learning provision made,
- (f) advising teachers at the institution in the further education sector about differentiated teaching methods appropriate for individual students with additional learning needs,

- (g) goruchwylio a hyfforddi gweithwyr cymorth dysgu mewn addysg bellach sy'n gweithio gyda myfyrwyr ag anghenion dysgu ychwanegol, ac
- (h) cyfrannu at hyfforddiant ar gyfer athrawon addysg bellach yn y sefydliad yn y sector addysg bellach er mwyn cynorthwyo'r cydlynnydd anghenion dysgu ychwanegol i gyflawni'r tasgau y cyfeirir atynt ym mharagraffau (a) i (e).

*Terfyn amser ar gyfer cydymffurfio â chais adran 65*

### **Terfyn amser ar gyfer cydymffurfio â chais awdurdod lleol am wybodaeth neu help arall**

**31.**—(1) Rhaid i berson sydd o dan ddyletswydd i gydymffurfio â chais awdurdod lleol o dan adran 65 o Ddeddf 2018 (dyletswyddau i ddarparu gwybodaeth a help arall) gydymffurfio â'r cais yn brydlon ac mewn unrhyw achos o fewn y cyfnod a ragnodir gan baragraff (2).

(2) Mae'r cyfnod rhagnodedig—

- (a) yn dechrau â'r diwrnod y mae'r person yn cael y cais, a
- (b) yn dod i ben ar ddiwedd 6 wythnos sy'n dechrau â thrannoeth y diwrnod a grybwyllir yn is-baragraff (a).

(3) Nid oes angen i'r person gydymffurfio â'r cais o fewn y cyfnod a ragnodir gan baragraff (2)—

- (a) os yw'n anymarferol gwneud hynny oherwydd amgylchiadau y tu hwnt i reolaeth y person, neu
- (b) os nad yw'r cais yn ymwneud ag arfer swyddogaeth mewn cysylltiad â phlentyn neu berson ifanc penodol.

*Nwyddau a gwasanaethau*

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

**32.**—(1) Caiff awdurdod lleol gyflenwi nwyddau neu wasanaethau i—

- (a) person sy'n arfer swyddogaethau o dan Ran 2 o Ddeddf 2018, neu
- (b) person sy'n gwneud darpariaeth ddysgu ychwanegol mewn cysylltiad ag arfer swyddogaethau o dan y Rhan honno,

ar yr amod bod y nwyddau hynny neu'r gwasanaethau hynny yn cael eu cyflenwi at ddiben arfer y swyddogaethau hynny neu wneud y ddarpariaeth ddysgu ychwanegol honno, yn ôl y digwydd.

- (g) supervising and training further education learning support workers who work with students with additional learning needs, and

- (h) contributing to training for further education teachers at the institution in the further education sector to assist the additional learning needs co-ordinator in carrying out the tasks referred to in paragraphs (a) to (e).

*Time limit for complying with section 65 request*

### **Time limit for complying with local authority request for information or other help**

**31.**—(1) A person under a duty to comply with a local authority's request under section 65 of the 2018 Act (duties to provide information and other help) must comply with the request promptly and in any event within the period prescribed by paragraph (2).

(2) The prescribed period—

- (a) begins with the day on which the person receives the request, and
- (b) ends at the end of 6 weeks beginning with the day after the day mentioned in subparagraph (a).

(3) The person need not comply with the request within the period prescribed by paragraph (2) if—

- (a) it is impractical to do so due to circumstances beyond the person's control, or
- (b) the request does not relate to the exercise of a function in respect of a particular child or young person.

*Goods and services*

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

**32.**—(1) A local authority may supply goods or services to—

- (a) a person exercising functions under Part 2 of the 2018 Act, or
- (b) a person making additional learning provision in connection with the exercise of functions under that Part,

provided that the supply of those goods or services is for the purpose of the exercise of those functions or the making of that additional learning provision, as the case may be.

(2) Caiff y telerau a'r amodau y mae awdurdod lleol yn cyflenwi nwyddau neu wasanaethau arnynt o dan baragraff (1) gynnwys telerau ac amodau o ran talu a chânt fod yn wahanol ar gyfer personau gwahanol neu ar achlysuron gwahanol.

(3) Ond rhaid i'r awdurdod lleol sicrhau na fyddai unrhyw delerau ac amodau o ran talu, drwy gymryd un flwyddyn ariannol gydag un arall, yn arwain at daliadau i'r awdurdod sy'n uwch na'r gost resymol iddo o gyflenwi'r nwyddau neu'r gwasanaethau y gwneir y taliadau mewn cysylltiad â hwy.

*Trefniadau ar gyfer osgoi a datrys anghydfodau a gwasanaethau eirioli annibynnol ar gyfer personau sy'n cael eu cadw'n gaeth*

#### **Diwygio adran 68 o Ddeddf 2018**

**33.** Yn adran 68(8) o Ddeddf 2018 (trefniadau ar gyfer osgoi a datrys anghytundebau), ar ôl "ardal" mewnosoder "a phersonau sy'n cael eu cadw'n gaeth y mae'r awdurdod lleol hwnnw yn awdurdod cartref iddynt".

## **RHAN 4**

### **RHIENI A PHOBL IFANC NAD OES GANDDYNT ALLUEDD**

#### **Dehongli'r Rhan hon**

**34.** Yn y Rhan hon—

mae i "yr adeg berthnasol" ("*the relevant time*") yr un ystyr ag yn adran 83(3) o Ddeddf 2018;

ystyr "cynrychiolydd" ("*representative*") yw—

- (a) dirprwy a benodir gan y Llys Gwarchod o dan adran 16(2)(b) o Ddeddf Galluedd Meddyliol 2005(1) i wneud penderfyniadau ar ran y rhiant neu'r person ifanc mewn perthynas â materion o fewn Rhan 2 o Ddeddf 2018;
- (b) rhoddai atwrneiaeth arhosol (o fewn yr ystyr a roddir i "lasting power of attorney" yn adran 9 o Ddeddf Galluedd Meddyliol 2005) a benodir gan riant plentyn neu gan berson ifanc i wneud penderfyniadau ar ran y rhiant neu'r person ifanc mewn perthynas â materion o fewn Rhan 2 o Ddeddf 2018;

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(1) 2005 p. 9.

(2) The terms and conditions on which a local authority supplies goods or services under paragraph (1) may include terms and conditions as to payment and may be different for different persons or on different occasions.

(3) But the local authority must secure that any terms and conditions as to payment would not, taking one financial year with another, result in payments to the authority in excess of the reasonable cost to it of supplying the goods or services in respect of which the payments are made.

*Arrangements for the avoidance and resolution of disputes and independent advocacy services for detained persons*

#### **Amendment to section 68 of the 2018 Act**

**33.** In section 68(8) of the 2018 Act (arrangements for the avoidance and resolution of disagreements), after "area" insert "and detained persons for whom it is the home authority".

## **PART 4**

### **PARENTS AND YOUNG PEOPLE LACKING CAPACITY**

#### **Interpretation of this Part**

**34.** In this Part—

"the relevant time" ("*yr adeg berthnasol*") has the same meaning as in section 83(3) of the 2018 Act;

"representative" ("*cynrychiolydd*") means—

- (a) a deputy appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005(1) to make decisions on the parent's or young person's behalf in relation to matters within Part 2 of the 2018 Act;
- (b) the donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) appointed by the parent of a child or by a young person to make decisions on the parent or young person's behalf in relation to matters within Part 2 of the 2018 Act;

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(1) 2005 c. 9.

- (c) atwrnai y mae atwrneiaeth barhaus (o fewn yr ystyr a roddir i “enduring power of attorney” yn Atodlen 4 i Ddeddf Galluedd Meddyliol 2005(1)) 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;
- (d) rhiant y person ifanc, pan na fo gan y person ifanc gynrychiolydd a restrir ym mharagraff (a), (b) neu (c).

- (c) an attorney in whom an enduring power of attorney (within the meaning of Schedule 4 to the Mental Capacity Act 2005(1)) 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;
- (d) the young person's parent, where the young person does not have a representative listed in paragraph (a), (b) or (c).

### **Pan nad oes gan riant plentyn alluedd**

**35.**—(1) Pan nad oes gan riant plentyn alluedd ar yr adeg berthnasol, mae cyfeiriadau yn narpariaethau Deddf 2018 a restrir isod at riant plentyn i'w darllen fel pe baent yn gyfeiriadau at gynrychiolydd i'r rhiant hwnnw—

- (a) adran 11(4);
- (b) adran 13(3);
- (c) adran 18(3);
- (d) adran 20(3)(a) a (b);
- (e) adran 22(1)(b) a (2)(b);
- (f) adran 23(8), (10) ac (11);
- (g) adran 24(7), (9) a (10);
- (h) adran 26(1)(b);
- (i) adran 27(1)(b) a (4);
- (j) adran 28(2)(b), (4), (5) a (7);
- (k) adran 31(7)(b), (8) a (9);
- (l) adran 32(1)(a) a (b) a (3);
- (m) adran 64(3) a (4).

(2) Pan nad oes gan riant plentyn alluedd ar yr adeg berthnasol, mae cyfeiriadau at rieni plant, a rhieni disgyblion yn adran 9(3)(b) a (4)(a) o Ddeddf 2018 yn y drefn honno i'w darllen fel pe baent yn cynnwys y rhieni a chynrychiolydd i'r rhieni.

(3) Pan nad oes gan riant plentyn alluedd ar yr adeg berthnasol, mae'r cyfeiriad yn rheoliad 22(5)(b) at riant y plentyn i'w ddarllen fel pe bai'n gyfeiriad at gynrychiolydd i'r rhiant hwnnw.

### **When a child's parent lacks capacity**

**35.**—(1) When a child's parent lacks capacity at the relevant time, references in the provisions of the 2018 Act listed below to a child's parent are to be read as references to a representative of that parent—

- (a) section 11(4);
- (b) section 13(3);
- (c) section 18(3);
- (d) section 20(3)(a) and (b);
- (e) section 22(1)(b) and (2)(b);
- (f) section 23(8), (10) and (11);
- (g) section 24(7), (9) and (10);
- (h) section 26(1)(b);
- (i) section 27(1)(b) and (4);
- (j) section 28(2)(b), (4), (5) and (7);
- (k) section 31(7)(b), (8) and (9);
- (l) section 32(1)(a) and (b) and (3);
- (m) section 64(3) and (4).

(2) When a child's parent lacks capacity at the relevant time, references to parents of children, and parents of pupils in section 9(3)(b) and (4)(a) of the 2018 Act respectively are to be read as including both the parents and a representative of the parents.

(3) When a child's parent lacks capacity at the relevant time, the reference in regulation 22(5)(b) to the child's parent is to be read as a reference to a representative of that parent.

(1) Mae diwygiadau perthnasol wedi eu gwneud i Atodlen 4 gan O.S. 2012/2404, Atodlen 2, paragraff 53(1) a (6).

(1) Relevant amendments to Schedule 4 are made by S.I. 2012/2404, Schedule 2, paragraph 53(1) and (6).



**Pan nad oes gan riant i blentyn sy'n berson sy'n cael ei gadw'n gaeth alluedd**

36. Pan nad oes gan riant i berson sy'n cael ei gadw'n gaeth sy'n blentyn alluedd ar yr adeg berthnasol—

- (a) mae cyfeiriadau yn adrannau 40(4) a (5)(b) a 42(6) o Ddeddf 2018 at riant person sy'n cael ei gadw'n gaeth sy'n blentyn i'w darllen fel pe baent yn gyfeiriadau at gynrychiolydd i'r rhiant hwnnw;
- (b) mae'r cyfeiriad yn rheoliad 18(6) at riant y plentyn i'w ddarllen fel pe bai'n gyfeiriad at gynrychiolydd i'r rhiant hwnnw.

**Pan nad oes gan berson ifanc alluedd**

37.—(1) Pan nad oes gan berson ifanc alluedd ar yr adeg berthnasol, mae cyfeiriadau at berson ifanc yn narpariaethau Deddf 2018 a restrir isod i'w darllen fel pe baent yn gyfeiriadau at gynrychiolydd y person ifanc—

- (a) adran 11(3)(c) yn yr ail le y mae'n digwydd;
- (b) adran 11(4) yn yr ail le y mae'n digwydd;
- (c) adran 12(2)(b) yn yr ail le y mae'n digwydd;
- (d) adran 13(2)(d) yn yr ail le y mae'n digwydd;
- (e) adran 13(3) yn yr ail le y mae'n digwydd;
- (f) adran 14(3) yn yr ail le y mae'n digwydd;
- (g) adran 20(3)(a) a (b);
- (h) adran 22(1)(a) a (2)(a);
- (i) adran 23(8) yn yr ail le y mae'n digwydd;
- (j) adran 23(10) ac (11)(a);
- (k) adran 26(1)(b) yn y lle cyntaf y mae'n digwydd;
- (l) adran 27(1)(b) yn y lle cyntaf y mae'n digwydd;
- (m) adran 27(4);
- (n) adran 28(2)(a), (4), (5) a (7);
- (o) adran 31(7)(a), (8) a (9);
- (p) adran 32(1)(a);
- (q) adran 32(1)(b) yn y lle cyntaf y mae'n digwydd;
- (r) adran 32(3).

(2) Pan nad oes gan berson ifanc alluedd ar yr adeg berthnasol, mae'r cyfeiriadau at bobl ifanc yn adran 9(3)(a) ac at fyfyrwyr yn adran 9(5) o Ddeddf 2018 yn y drefn honno i'w darllen fel pe baent yn cynnwys y person ifanc a chynrychiolydd y person ifanc.

**When a parent of a child who is a detained person lacks capacity**

36. When a parent of a detained person who is a child lacks capacity at the relevant time—

- (a) references in sections 40(4) and (5)(b) and 42(6) of the 2018 Act to the parent of a detained person who is a child are to be read as references to a representative of that parent;
- (b) the reference in regulation 18(6) to the child's parent is to be read as a reference to a representative of that parent.

**When a young person lacks capacity**

37.—(1) When a young person lacks capacity at the relevant time, references to a young person in the provisions of the 2018 Act listed below are to be read as references to the representative of the young person—

- (a) section 11(3)(c) in the second place it occurs;
- (b) section 11(4) in the second place it occurs;
- (c) section 12(2)(b) in the second place it occurs;
- (d) section 13(2)(d) in the second place it occurs;
- (e) section 13(3) in the second place it occurs;
- (f) section 14(3) in the second place it occurs;
- (g) section 20(3)(a) and (b);
- (h) section 22(1)(a) and (2)(a);
- (i) section 23(8) in the second place it occurs;
- (j) section 23(10) and (11)(a);
- (k) section 26(1)(b) in the first place it occurs;
- (l) section 27(1)(b) in the first place it occurs;
- (m) section 27(4);
- (n) section 28(2)(a), (4), (5) and (7);
- (o) section 31(7)(a), (8) and (9);
- (p) section 32(1)(a);
- (q) section 32(1)(b) in the first place it occurs;
- (r) section 32(3).

(2) When a young person lacks capacity at the relevant time, the references to young people in section 9(3)(a) and to students in section 9(5) of the 2018 Act respectively are to be read as including both the young person and the representative of the young person.

(3) Pan nad oes gan berson ifanc alluedd ar yr adeg berthnasol, mae cyfeiriadau at berson ifanc yn y rheoliadau isod i'w darllen fel pe baent yn gyfeiriadau at gynrychiolydd y person ifanc—

- (a) rheoliad 10(2), (3) a (5);
- (b) rheoliad 14(3) a (4);
- (c) rheoliad 22(5)(a).

#### **Pan nad oes gan berson sy'n cael ei gadw'n gaeth sy'n berson ifanc alluedd**

**38.** Pan nad oes gan berson sy'n cael ei gadw'n gaeth sy'n berson ifanc alluedd ar yr adeg berthnasol, mae'r cyfeiriadau yn y darpariaethau isod i'w darllen fel pe baent yn gyfeiriadau at gynrychiolydd i'r person ifanc hwnnw—

- (a) y cyfeiriad at y person sy'n cael ei gadw'n gaeth yn y trydydd lle y mae'n digwydd yn adran 40(4) o Ddeddf 2018;
- (b) y cyfeiriad at berson sy'n cael ei gadw'n gaeth yn y lle cyntaf y mae'n digwydd yn adran 40(5)(b) o Ddeddf 2018;
- (c) y cyfeiriadau yn adrannau 41(2)(a) a 42(4) o Ddeddf 2018 at berson sy'n cael ei gadw'n gaeth sy'n berson ifanc;
- (d) y cyfeiriad at berson sy'n cael ei gadw'n gaeth yn y lle cyntaf y mae'n digwydd yn adran 42(6) o Ddeddf 2018;
- (e) y cyfeiriad at berson ifanc yn yr ail le y mae'n digwydd yn rheoliad 18(4)(b);
- (f) y cyfeiriad at berson sy'n cael ei gadw'n gaeth yn y lle cyntaf y mae'n digwydd yn rheoliad 18(6).

#### **Trefniadau ar gyfer osgoi a datrys anghytundebau o dan adran 68 o Ddeddf 2018**

**39.** Pan nad oes gan riant plentyn neu gan berson ifanc alluedd ar yr adeg berthnasol, rhaid i drefniadau a wneir gan awdurdod lleol o dan adran 68 o Ddeddf 2018 ddarparu i gynrychiolydd gymryd rhan yn y trefniadau ar ran rhiant y plentyn hwnnw neu'r person ifanc hwnnw.

#### **Gwasanaethau eirioli annibynnol o dan adran 69 o Ddeddf 2018**

**40.** Pan nad oes gan berson ifanc y mae awdurdod lleol yn gyfrifol amdano alluedd ar yr adeg berthnasol, rhaid i'r awdurdod lleol hwnnw atgyfeirio cynrychiolydd y person ifanc hwnnw i wasanaeth eirioli annibynnol os yw'r cynrychiolydd yn gofyn am wasanaeth eirioli annibynnol.

(3) When a young person lacks capacity at the relevant time, references to a young person in the regulations below are to be read as references to the representative of the young person—

- (a) regulation 10(2), (3) and (5);
- (b) regulation 14(3) and (4);
- (c) regulation 22(5)(a).

#### **When a detained person who is a young person lacks capacity**

**38.** When a detained person who is a young person lacks capacity at the relevant time, the references in the provisions below are to be read as references to a representative of that young person—

- (a) the reference to the detained person in the third place it occurs in section 40(4) of the 2018 Act;
- (b) the reference to a detained person in the first place it occurs in section 40(5)(b) of the 2018 Act;
- (c) the references in sections 41(2)(a) and 42(4) of the 2018 Act to a detained person who is a young person;
- (d) the reference to a detained person in the first place it occurs in section 42(6) of the 2018 Act;
- (e) the reference to a young person in the second place it occurs in regulation 18(4)(b);
- (f) the reference to a detained person in the first place it occurs in regulation 18(6).

#### **Arrangements for avoidance and resolution of disagreements under section 68 of the 2018 Act**

**39.** When a child's parent or a young person lacks capacity at the relevant time, arrangements made by a local authority under section 68 of the 2018 Act must provide for a representative to engage in the arrangements on behalf of that child's parent or that young person.

#### **Independent advocacy services under section 69 of the 2018 Act**

**40.** When a young person for whom a local authority is responsible lacks capacity at the relevant time, that local authority must refer that young person's representative to an independent advocacy service if the representative requests an independent advocacy service.

## **Cynrychiolaeth mewn apelau**

**41.** Pan nad oes gan riant plentyn, neu riant person sy'n cael ei gadw'n gaeth ac sy'n blentyn, alluedd ar yr adeg berthnasol, neu pan nad oes gan berson ifanc, neu berson sy'n cael ei gadw'n gaeth sy'n berson ifanc, alluedd ar yr adeg berthnasol, caiff ei gynrychiolydd apelio i Dribiwnlys Addysg Cymru ar ei ran ac mae adrannau 70 a 72 o Ddeddf 2018 i'w dehongli yn unol â hynny.

## **Deddf Galluedd Meddyliol 2005**

**42.** Mae rheoliadau 35, 36, 37 a 39 yn cael effaith er gwaethaf adran 27(1)(g) o Ddeddf Galluedd Meddyliol 2005(1).

## **Representation in appeals**

**41.** When a child's parent, or a parent of a detained person who is a child, lacks capacity at the relevant time, or a young person, or detained person who is a young person, lacks capacity at the relevant time, their representative may appeal to the Education Tribunal for Wales on their behalf and sections 70 and 72 of the 2018 Act are to be interpreted accordingly.

## **Mental Capacity Act 2005**

**42.** Regulations 35, 36, 37 and 39 have effect despite section 27(1)(g) of the Mental Capacity Act 2005(1).

*Kirsty Williams*

Y Gweinidog Addysg, un o Weinidogion Cymru  
Am 1.40 p.m. ar 24 Mawrth 2021

Minister for Education, one of the Welsh Ministers  
At 1.40 p.m. on 24 March 2021

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(1) Nid yw adran 27(1)(g) yn caniatáu i benderfyniadau ar gyflawni cyfrifoldebau rhiant mewn materion nad ydynt yn ymwneud ag eiddo plentyn gael eu gwneud ar ran person.

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(1) Section 27(1)(g) 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.

# ATODLEN 1

Rheoliadau 6, 7 a 9

## ANGHENION RHESYMBOL AM ADDYSG NEU HYFFORDDIANT

### Rhaglen astudio addas

1.—(1) Y ffactorau y mae rhaid i'r awdurdod lleol eu hystyried wrth benderfynu a oes posibilrwydd realistig y byddai dilyn rhaglen astudio arfaethedig neu barhau i ddilyn rhaglen astudio (gydag unrhyw addasiadau arfaethedig iddi) yn galluogi'r person ifanc i gyflawni deilliannau dymunol y person yw—

- (a) gallu'r person ifanc i ddilyn y rhaglen astudio;
- (b) addasrwydd y rhaglen astudio i gyflawni deilliannau dymunol y person ifanc;
- (c) unrhyw ffactorau eraill y mae'r awdurdod lleol yn ystyried yn rhesymol eu bod yn berthnasol.

(2) Wrth ystyried y ffactorau a grybwyllir yn is-baragraff (1), rhaid i'r awdurdod lleol ystyried gwybodaeth berthnasol sy'n ymwneud â'r ffactorau hynny, gan gynnwys unrhyw wybodaeth a ddarperir—

- (a) gan y rheini sy'n ymwneud â darparu addysg neu hyfforddiant i'r person ifanc, neu'r rheini sydd wedi gwneud hynny yn ddiweddar;
- (b) gan broffesiynolion iechyd neu ofal cymdeithasol, gan gynnwys unrhyw rai sy'n ymwneud â'r person ifanc;
- (c) gan berchennog y sefydliad addysgol y gall rhaglen astudio arfaethedig gael ei dilyn ynddo;
- (d) gan bersonau sy'n darparu gwasanaethau, neu sydd wedi eu cyflogi gan gyrff sy'n darparu gwasanaethau, yn unol â threfniadau a wneir neu gyfarwyddydau a roddir o dan adran 10 o Ddeddf Cyflogaeth a Hyfforddiant 1973(1) (darparu gwasanaethau gyrfaoedd).

# SCHEDULE 1

Regulations 6, 7 and 9

## REASONABLE NEEDS FOR EDUCATION OR TRAINING

### Suitable programme of study

1.—(1) The factors that the local authority must take into account when determining whether there is a realistic prospect that undertaking a proposed programme of study or continuing to undertake a programme of study (with any proposed modifications to it) would enable the young person to meet the person's desired outcomes are—

- (a) the young person's ability to undertake the programme of study;
- (b) the suitability of the programme of study to meet the young person's desired outcomes;
- (c) any other factors the local authority reasonably considers to be relevant.

(2) When considering the factors mentioned in subparagraph (1), the local authority must take into account relevant information relating to those factors, including any provided by—

- (a) those involved in providing education or training to the young person, or those who have recently done so;
- (b) health or social care professionals, including any involved with the young person;
- (c) the proprietor of the educational institution at which a proposed programme of study may be undertaken;
- (d) persons who provide, or who are employed by bodies that provide, services pursuant to arrangements made or directions given under section 10 of the Employment and Training Act 1973(1) (provision of careers services).

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(1) 1973 p. 50. Amnewidiwyd adran 10 gan Ddeddf Diwygio Undebau Llafur a Hawliau Cyflogaeth 1993 (p. 19), adran 45, ac fe'i diwygiwyd gan O.S. 2010/1158, Atodlen 2, Rhan 2, paragraff 28(1) a (2). Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adran 10, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan O.S. 1999/672, erthygl 2 ac Atodlen 1 ac yna i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

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(1) 1973 c. 50. Section 10 was substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 45 and amended by S.I. 2010/1158, Schedule 2, Part 2, paragraph 28(1) and (2). The Secretary of State's functions under section 10, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672, article 2 and Schedule 1 and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

## **Ffactorau ychwanegol pan fo person ifanc yn dilyn rhaglen astudio**

2. Pan fo'r person ifanc eisoes yn dilyn y rhaglen astudio, ni chaiff yr awdurdod lleol ddod i'r casgliad nad oes posibilrwydd realistig mwyach y byddai parhau i ddilyn y rhaglen astudio fel y'i bwriadwyd ar y dechrau yn galluogi'r person ifanc i gyflawni deilliannau dymunol y person oni bai ei fod wedi ystyried y ffactorau a ganlyn—

- (a) bod pobl ifanc yn datblygu ar gyfraddau gwahanol ac efallai na fydd cynnydd person ifanc tuag at gyflawni'r deilliannau dymunol yn amlwg tan yn ddiweddarach yn y rhaglen astudio;
- (b) bod y person ifanc yn disgwyl cael y cyfle i gwblhau'r rhaglen astudio fel y'i bwriadwyd ar y dechrau;
- (c) a yw newid sylweddol yn amgylchiadau personol neu anghenion y person ifanc wedi effeithio ar allu'r person ifanc i ddysgu.

## **Rhaglen astudio y bwriedir iddi bara am fwy na 2 flynedd**

3.—(1) Bwriedir ar y dechrau i'r rhaglen astudio addas y bwriedir i'r person ifanc ei dilyn (gan gynnwys pan fo'n rhaglen astudio ychwanegol o dan baragraff 5(1)) gael ei chynnal dros gyfnod o fwy na 2 flynedd.

(2) Y ffactorau, pan fônt yn berthnasol, y mae rhaid i'r awdurdod lleol eu hystyried yw—

- (a) pan fo'r rhaglen wedi ei chynllunio i ganiatáu i'r person ifanc gael mynediad at gwrs o addysg bellach neu hyfforddiant a ddilynir gan bobl ifanc nad oes ganddynt anghenion dysgu ychwanegol—
  - (i) hyd arferol y cwrs ar gyfer pobl ifanc nad oes ganddynt anghenion dysgu ychwanegol, a
  - (ii) a oes angen amser ychwanegol ar y person ifanc, o'i gymharu â'r rhan fwyaf o bobl ifanc eraill nad oes ganddynt anghenion dysgu ychwanegol, i gwblhau'r cwrs;
- (b) pan fo'r rhaglen astudio wedi ei chynllunio'n arbennig i ddarparu darpariaeth ddysgu ychwanegol ar gyfer y person ifanc, a oes unrhyw resymau eithriadol sy'n ymwneud â gallu'r person ifanc i ddysgu fel na ellir cyflawni deilliannau dymunol y person yn realistig o fewn y cyfnod o 2 flynedd.

## **Additional factors where young person on programme of study**

2. Where the young person is already undertaking the programme of study, the local authority may not conclude that there is no longer a realistic prospect that continuing to undertake the programme of study as intended at the outset would enable the young person to meet the person's desired outcomes unless it has taken into account the following factors—

- (a) that young people progress at different rates and a young person's progress towards meeting the desired outcomes may not be apparent until later in the programme of study;
- (b) the young person's expectation of having the opportunity to complete the programme of study as intended at the outset;
- (c) whether the young person's capability to learn has been affected by a significant change in the young person's personal circumstances or needs.

## **Programme of study intended to last for more than 2 years**

3.—(1) The duration of the suitable programme of study that it is proposed the young person undertake (including where it is an additional programme of study under paragraph 5(1)) is intended at the outset to take place over a period of more than 2 years.

(2) The factors, where relevant, that the local authority must take into account are—

- (a) where the programme is designed to allow the young person to access a course of further education or training which is undertaken by young people who do not have additional learning needs—
  - (i) the usual length of the course for young people who do not have additional learning needs, and
  - (ii) whether the young person requires additional time in comparison to the majority of other young people who do not have additional learning needs, to complete the course;
- (b) where the programme of study is specially designed to provide additional learning provision for the young person, whether there are any exceptional reasons relating to the young person's capability to learn such that the person's desired outcomes cannot realistically be met within the period of 2 years.

## Estyn rhaglen astudio

4.—(1) Nid yw'r person ifanc wedi gallu cwblhau rhaglen astudio (gan gynnwys pan fo'n rhaglen astudio ychwanegol o dan baragraff 5(1)) o fewn cyfnod para'r rhaglen fel y'i bwriadwyd ar y dechrau a bwriedir estyn y rhaglen i alluogi'r person ifanc i gyflawni deilliannau dymunol y person ar ddechrau'r rhaglen (“deilliannau gwreiddiol”) neu rai sy'n sylweddol debyg i'r deilliannau gwreiddiol (“deilliannau addasedig”).

(2) Y ffactorau, pan fônt yn berthnasol, y mae rhaid i'r awdurdod lleol eu hystyried yw—

- (a) a oes modd osgoi'r amgylchiadau sy'n arwain at yr estyniad arfaethedig;
- (b) a yw'r estyniad arfaethedig yn angenrheidiol i alluogi'r person ifanc i gwblhau'r rhaglen astudio a chyflawni'r deilliannau gwreiddiol neu'r deilliannau addasedig;
- (c) a yw'r estyniad arfaethedig at ddiben y dylid bod wedi ymdrin ag ef yn ystod cyfnod para gwreiddiol y rhaglen astudio a phan fo hynny'n wir, y rhesymau pam nad ymdriniwyd ag ef;
- (d) a yw'r estyniad arfaethedig yn gymesur â'r deilliannau gwreiddiol nad ydynt wedi eu cyflawni eto neu'r canlyniadau addasedig ac a oes angen hyd gwahanol o estyniad o dan yr amgylchiadau;
- (e) pan fo'r rhaglen astudio wedi ei hestyn yn flaenorol—
  - (i) a yw'r estyniad arfaethedig yn codi o'r un ffeithiau â'r un blaenorol, a
  - (ii) a oes rhesymau eithriadol pam nad oedd y person ifanc yn gallu cyflawni'r deilliannau yn ystod yr estyniad blaenorol.

## Rhaglen astudio ychwanegol

5.—(1) Mae'r rhaglen astudio y bwriedir i'r person ifanc ei dilyn yn ychwanegol at addysg bellach neu hyfforddiant y mae'r person ifanc eisoes wedi ei dilyn neu ei ddilyn.

(2) Y ffactorau, pan fônt yn berthnasol, y mae rhaid i'r awdurdod lleol eu hystyried yw—

- (a) nad yw'r person ifanc yn gallu elwa mewn ffordd ystyrllon ar yr addysg bellach flaenorol neu'r hyfforddiant blaenorol oherwydd—

## Extension to a programme of study

4.—(1) The young person has been unable to complete a programme of study (including where it is an additional programme of study under paragraph 5(1)) within the programme's duration as intended at the outset and it is proposed to extend the programme to enable the young person to meet the person's desired outcomes at the start of the programme (“original outcomes”) or ones that are substantially similar to the original outcomes (“adjusted outcomes”).

(2) The factors, where relevant, that the local authority must take into account are—

- (a) whether the circumstances giving rise to the proposed extension are unavoidable;
- (b) whether the proposed extension is necessary to enable the young person to complete the programme of study and meet the original or adjusted outcomes;
- (c) whether the proposed extension is for a purpose that should have been addressed during the original duration of the programme of study and where that is the case, the reasons why it was not addressed;
- (d) whether the proposed extension is proportionate to the original outcomes which are not yet met or the adjusted outcomes and whether an alternative length of extension is required in the circumstances;
- (e) where the programme of study has previously been extended—
  - (i) whether the proposed extension arises from the same facts as the previous one, and
  - (ii) whether there are exceptional reasons why the young person was unable to achieve the outcomes during the previous extension.

## Additional programme of study

5.—(1) The programme of study that it is proposed the young person undertake is additional to further education or training which the young person has already undertaken.

(2) The factors, where relevant, that the local authority must take into account are—

- (a) that the young person is unable to benefit in a meaningful way from the previous further education or training due to—

- (i) bod yr addysg bellach flaenorol neu'r hyfforddiant blaenorol wedi syrthio gymaint islaw'r safon ddisgwyliedig fel na ellir honni'n rhesymol bod ei darparwr neu ei ddarparwr wedi cyflenwi'r addysg neu'r hyfforddiant sy'n angenrheidiol i gyflawni deilliannau dymunol y person ifanc wrth ei dilyn neu ei ddilyn,
  - (ii) newid sylweddol yn amgylchiadau personol neu anghenion y person ifanc, neu
  - (iii) unrhyw amgylchiadau eithriadol eraill;
- (b) pan fo'r person ifanc wedi dilyn yr addysg bellach flaenorol neu'r hyfforddiant blaenorol mewn ysgol a gynhelir neu sefydliad yn y sector addysg bellach, na allai elfen hanfodol a sylweddol o'r addysg bellach neu'r hyfforddiant sy'n angenrheidiol i gyflawni deilliannau dymunol y person ifanc fod wedi ei chyflenwi fel rhan o'r addysg bellach flaenorol honno neu'r hyfforddiant blaenorol hwnnw;
  - (c) pan fo'r addysg bellach flaenorol neu'r hyfforddiant blaenorol wedi para am lai na 2 flynedd, cyfanswm cyfnod para'r addysg bellach flaenorol honno neu'r hyfforddiant blaenorol hwnnw a chyfnod para'r rhaglen astudio arfaethedig ac a yw'r graddau y mae cyfanswm y cyfnod para hwnnw yn fwy na 2 flynedd yn rhesymol o dan bob un o'r amgylchiadau;
  - (d) a oes unrhyw amgylchiadau eithriadol eraill i awgrymu nad yw'r person ifanc wedi cael mynediad effeithiol at addysg bellach neu hyfforddiant.
- (i) the previous further education or training falling so far below the expected standard that the provider of it cannot reasonably be said to have delivered the education or training necessary to meet the young person's desired outcomes in undertaking it,
  - (ii) a significant change in the personal circumstances or needs of the young person, or
  - (iii) any other exceptional circumstances;
- (b) where the previous further education or training was undertaken by the young person at a maintained school or institution in the further education sector, that an essential and substantial element of the further education or training necessary to meet the young person's desired outcomes could not have been delivered as part of that previous further education or training;
  - (c) where the duration of the previous education or training was less than 2 years, the total duration of that previous education or training and that of the proposed programme of study and whether the extent to which that total duration exceeds 2 years is reasonable in all the circumstances;
  - (d) whether there are any other exceptional circumstances to suggest that the young person has not received effective access to further education or training.

### **Amgylchiadau eithriadol eraill**

6.—(1) Mae'r amgylchiadau yn sylweddol debyg i un neu ragor o'r amgylchiadau a nodir ym mharagraff 3(1), 4(1) neu 5(1).

(2) Y ffactorau, pan fônt yn berthnasol, y mae rhaid i'r awdurdod lleol eu hystyried yw'r ffactorau a nodir ym mharagraff 3(2), 4(2) neu 5(2) sy'n cyfateb i ba un bynnag o'r amgylchiadau ym mharagraff 3(1), 4(1) neu 5(1) sy'n sylweddol debyg.

### **Other exceptional circumstances**

6.—(1) The circumstances are substantially similar to one or more of the circumstances set out in paragraph 3(1), 4(1) or 5(1).

(2) The factors, where relevant, that the local authority must take into account are the factors set out in paragraph 3(2), 4(2) or 5(2) corresponding to whichever of the circumstances in paragraph 3(1), 4(1) or 5(1) are substantially similar.

## ATODLEN 2

Rheoliadau 20, 22 a 23

### CYMHWYSO GYDAG ADDASIADAU DDEDDF 2018 MEWN PERTHYNAS Â PHERSONAU SY’N CAEL EU CADW’N GAETH MEWN YSBYTY O DAN RAN 3 O DDEDDF 1983

1.—(1) Mae’r pwerau a’r dyletswyddau a roddir i awdurdod lleol neu a osodir ar awdurdod lleol gan Ran 2 o Ddeddf 2018, gan y Rheoliadau hyn neu fel arall o dan y Rhan honno, i’r graddau na fyddent yn gymwys mewn perthynas â phlentyn neu berson ifanc o fewn is-baragraff (3) oherwydd adran 562 o Ddeddf Addysg 1996 neu adran 44(1) o Ddeddf 2018, yn gymwys i’r plentyn neu’r person ifanc gyda’r addasiadau y darperir ar eu cyfer yn is-baragraff (4).

(2) Mae darpariaethau eraill o Ddeddf 2018, y Rheoliadau hyn ac unrhyw ddarpariaethau eraill o dan Ran 2 o’r Ddeddf honno, i’r graddau y maent yn gymwys at ddibenion y pwerau hynny a’r dyletswyddau hynny neu fel arall yn ymwneud â’r plentyn neu’r person ifanc, yn gymwys mewn perthynas â’r plentyn neu’r person ifanc gyda’r addasiadau y darperir ar eu cyfer yn is-baragraff (4).

(3) Mae plentyn neu berson ifanc o fewn yr is-baragraff hwn os yw’r plentyn neu’r person ifanc—

- (a) yn ddarostyngedig i orchymyn cadw, a
- (b) yn cael ei gadw’n gaeth mewn ysbty o dan Ran 3 o Ddeddf 1983.

(4) Yr addasiadau yw—

- (a) mae cyfeiriadau, sut bynnag y’u mynegir, at awdurdod lleol sy’n gyfrifol (neu’n dod neu’n peidio â bod yn gyfrifol) am blentyn neu berson ifanc i’w dehongli fel pe baent yn gyfeiriadau at awdurdod lleol, sef yr awdurdod lleol perthnasol (neu sy’n dod neu’n peidio â bod yn awdurdod o’r fath) ar gyfer y plentyn neu’r person ifanc ac yn unol â hynny nid yw adran 99(4) i fod yn gymwys i’r cyfeiriadau hynny;
- (b) hepgorer adran 13(2)(e);
- (c) yn adran 14, hepgorer is-adrannau (2)(b) a (4);
- (d) yn adran 15(1)—
  - (i) ar ddiwedd paragraff (a), hepgorer “a”;
  - (ii) ar ddiwedd paragraff (b) mewnosoder “ac”;

## SCHEDULE 2

Regulations 20, 22 and 23

### APPLICATION WITH MODIFICATIONS OF THE 2018 ACT IN RELATION TO PERSONS DETAINED IN HOSPITAL UNDER PART 3 OF THE 1983 ACT

1.—(1) The powers and duties conferred or imposed on a local authority by Part 2 of the 2018 Act, by these Regulations or otherwise under that Part, to the extent that they would not apply in relation to a child or young person within sub-paragraph (3) because of section 562 of the Education Act 1996 or section 44(1) of the 2018 Act, apply to the child or young person with the modifications provided for in sub-paragraph (4).

(2) Other provisions of the 2018 Act, these Regulations and any other provisions under Part 2 of that Act, in so far as they apply for the purposes of those powers and duties or otherwise relate to the child or young person, apply in relation to the child or young person with the modifications provided for in sub-paragraph (4).

(3) A child or young person is within this sub-paragraph if the child or young person is—

- (a) subject to a detention order, and
- (b) detained in a hospital under Part 3 of the 1983 Act.

(4) The modifications are—

- (a) references, however expressed, to a local authority being responsible (or becoming or ceasing to be responsible) for a child or young person are to be interpreted as references to a local authority that is (or becomes or ceases to be) the relevant local authority for the child or young person and accordingly section 99(4) is not to apply to those references;
- (b) omit section 13(2)(e);
- (c) in section 14, omit subsections (2)(b) and (4);
- (d) in section 15(1)—
  - (i) at the end of paragraph (a), omit “and”;
  - (ii) at the end of paragraph (b) insert “and”;



(iii) ar ôl paragraff (b) mewnosoder—

“(c) os nad yw—

- (i) 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
- (ii) yn cael ei gadw’n gaeth mewn ysbyty o dan Ran 3 o Ddeddf Iechyd Meddwl 1983.”;

- (e) hepgorer adran 36;
- (f) os yw’r ysbyty yn llety ieuentid perthnasol, nid yw’r dyletswyddau a osodir ar awdurdod cartref gan adrannau 40 a 42 yn gymwys;
- (g) yn adran 84(1)(a), ar y diwedd mewnosoder “neu reoliad 22(5) o Reoliadau Anghenion Dysgu Ychwanegol (Cymru) 2021”;
- (h) yn adran 85(5)(a), ar ôl “42(6)” mewnosoder “a rheoliad 22(5) o Reoliadau Anghenion Dysgu Ychwanegol (Cymru) 2021”;
- (i) yn rheoliad 16(1)(b), ar ôl “Ddeddf 2018” mewnosoder “neu reoliad 22(2)”.

(iii) after paragraph (b) insert—

“(c) is not—

- (i) subject to a detention order (within the meaning given by section 562(1A)(a), (2) and (3) of the Education Act 1996), and
- (ii) detained in a hospital under Part 3 of the Mental Health Act 1983.”;

- (e) omit section 36;
- (f) if the hospital is relevant youth accommodation, the duties imposed on a home authority by sections 40 and 42 do not apply;
- (g) in section 84(1)(a), at the end insert “or regulation 22(5) of the Additional Learning Needs (Wales) Regulations 2021”;
- (h) in section 85(5)(a), after “42(6)” insert “and regulation 22(5) of the Additional Learning Needs (Wales) Regulations 2021”;
- (i) in regulation 16(1)(b), after “2018 Act” insert “or regulation 22(2)”.

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