



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

2018 anaw 2

## PART 2 **E+W**

### ADDITIONAL LEARNING NEEDS

#### CHAPTER 1 **E+W**

#### KEY TERMS, CODE AND PARTICIPATION

##### *Code of practice*

#### 4 Additional learning needs code **E+W**

- (1) The Welsh Ministers must issue, and may from time to time revise, a code on additional learning needs (“the code”).
- (2) The code may include guidance about the exercise of functions under this Part and about any other matter connected with identifying and meeting additional learning needs.
- (3) The following persons must, when exercising functions under this Part, have regard to any relevant guidance contained in the code—
  - (a) a local authority in Wales or England;
  - (b) the governing body of a maintained school in Wales or England;
  - (c) the governing body of an institution in the further education sector in Wales or England;
  - (d) the proprietor of an Academy;
  - (e) a youth offending team for an area in Wales or England;
  - (f) a person in charge of relevant youth accommodation in Wales or England;
  - (g) a Local Health Board;

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*Status: Point in time view as at 01/01/2022. This version of this provision has been superseded.*

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- (h) an NHS trust;
  - (i) the National Health Service Commissioning Board;
  - (j) a clinical commissioning group;
  - (k) an NHS foundation trust;
  - (l) a Special Health Authority.
- (4) For provision about local authorities requiring certain providers of nursery education to have regard to guidance contained in the code, see section 153 of the Education Act 2002 (c. 32).
- (5) The code may impose requirements—
- (a) on a local authority in respect of arrangements it must make under sections 9 (advice and information), 68 (avoidance and resolution of disagreements) and 69 (independent advocacy services);
  - (b) on a governing body of a maintained school in Wales or an institution in the further education sector in Wales or a local authority in respect of—
    - (i) decisions as to whether a child or young person has additional learning needs,
    - (ii) the preparation, content, form, review and revision of individual development plans, or
    - (iii) ceasing to maintain individual development plans;
  - (c) on a governing body of a maintained school in Wales or an institution in the further education sector in Wales in respect of the provision of information for the purposes of this Part.
- (6) The code must include the following requirements on governing bodies and local authorities—
- (a) a requirement under subsection (5)(b)(i) for the notification of a decision that a child or young person does not have additional learning needs to be given in accordance with section 11(4), 13(3), 18(3) or 40(4) before the end of a period of time specified in the code, subject to any exceptions to the requirement specified in the code;
  - (b) a requirement under subsection (5)(b)(ii) to prepare an individual development plan and give a copy of it in accordance with section 22 or 40(5) before the end of a period of time specified in the code, subject to any exceptions to the requirement specified in the code;
  - (c) a requirement under subsection (5)(b)(ii) to use the appropriate standard form set out in the code for an individual development plan; and the code must include one or more standard forms for this purpose.
- (7) The code may make—
- (a) different provision for different purposes or cases, and
  - (b) transitory, transitional or saving provision,
- in relation to a requirement imposed under subsection (5) or provision made under section 7(4) or 8(4).
- (8) The duty imposed by subsection (3) and a duty imposed under subsection (5) also apply to a person exercising a function for the purpose of the discharge of functions under this Part by the persons mentioned in subsection (3).
- (9) The power to impose requirements under subsection (5)(c) does not include the power to impose requirements in respect of the disclosure of personal data to a person who

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is not the data subject, except for cases where the person is the parent of a child and the data subject is the child;<sup>F1</sup>...

[<sup>F2</sup>(9A) In subsection (9)—

“data subject” (“*testun y data*”) has the meaning given by section 3(5) of the Data Protection Act 2018;

“personal data” (“*data personol*”) has the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).]

(10) The Education Tribunal for Wales must have regard to any provision of the code that appears to it to be relevant to a question arising on an appeal under this Part.

(11) The Welsh Ministers must publish the code for the time being in force on their website.

#### Textual Amendments

**F1** Words in s. 4(9) omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 226(2)(a)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

**F2** S. 4(9A) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 226(2)(b)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

#### Commencement Information

**I1** S. 4 in force at 2.11.2020 for specified purposes by S.I. 2020/1182, **reg. 3(2)(a)**

**I2** S. 4 in force at 1.9.2021 for specified purposes by S.I. 2021/373, **arts. 3, 4** (as amended by S.I. 2021/938, art. 2(3))

**I3** S. 4 in force at 1.9.2021 for specified purposes by S.I. 2021/373, **arts. 6, 7** (as amended by S.I. 2021/938, art. 2(4)(5))

**I4** S. 4 in force at 1.1.2022 for specified purposes by S.I. 2021/1243, **art. 3(a)** (with arts. 4-23) (as amended by S.I. 2021/1428, **art. 2**; (10.6.2022) by S.I. 2022/663, **art. 2** and (21.8.2023) by S.I. 2023/932, **art. 2**)

**I5** S. 4 in force at 1.1.2022 for specified purposes by S.I. 2021/1244, **art. 3(a)** (with arts. 4-21) (as amended by S.I. 2021/1428, **art. 3**; (10.6.2022) by S.I. 2022/663, **art. 3** and (21.8.2023) by S.I. 2023/932, **art. 3**)

**I6** S. 4 in force at 1.1.2022 for specified purposes by S.I. 2021/1245, **arts. 3(a), 4** (with art. 1(4))

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