



# Curriculum and Assessment (Wales) Act 2021

2021 asc 4

VALID FROM 14/06/2022

## PART 6

### SUPPLEMENTARY

VALID FROM 01/09/2022

#### *Mental health and emotional well-being*

#### **63 Duty to have regard to mental health and emotional well-being of children and young persons**

- (1) A person within subsection (2) must, in exercising any function conferred by or under this Act, have regard to the mental health and emotional well-being of children and young persons likely to be affected by the exercise of the function.
- (2) The persons are—
  - (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee for a pupil referral unit;
  - (f) a person who provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit by virtue of arrangements made under section 19A of the Education Act 1996 (c. 56);

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(g) a local authority in Wales.

VALID FROM 01/09/2022

*UN Conventions*

**64 Duty to promote knowledge and understanding of UN Conventions on the rights of children and persons with disabilities**

- (1) The head teacher and governing body of a maintained school or a maintained nursery school must promote knowledge and understanding of Part 1 of the UNCRC, and of the UNCRPD, among those who provide teaching and learning in respect of the school's curriculum.
- (2) A provider of funded non-maintained nursery education must promote knowledge and understanding of Part 1 of the UNCRC, and of the UNCRPD, among those who provide teaching and learning in respect of the curriculum for children for whom that education is provided.
- (3) The local authority, the management committee (if there is one) and the teacher in charge of a pupil referral unit must promote knowledge and understanding of Part 1 of the UNCRC, and of the UNCRPD, among those who provide teaching and learning in respect of the curriculum for the unit.
- (4) A local authority in Wales must promote knowledge and understanding of Part 1 of the UNCRC, and of the the UNCRPD, among those who provide teaching and learning otherwise than at a pupil referral unit under arrangements made by the authority under section 19A of the Education Act 1996 (c. 56).

(5) In this section—

“UNCRC” (“*CCUHP*”) means the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989; and Part 1 of the UNCRC is to be treated as having effect—

- (a) as set out for the time being in Part 1 of the Schedule to the Rights of Children and Young Persons (Wales) Measure 2011 (nawm 2), but
- (b) subject to any declaration or reservation as set out for the time being in Part 3 of that Schedule;

“UNCRPD” (“*CCUHPA*”) means the United Nations Convention on the Rights of Persons with Disabilities and its optional protocol adopted on 13 December 2006 by General Assembly resolution A/RES/61/106 and opened for signature on 30 March 2007; and it is to be treated as having effect subject to any declaration or reservation made by the United Kingdom Government upon ratification, save where the declaration or reservation has subsequently been withdrawn.

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### *Co-operation and facilitation*

#### **65 Duty to co-operate**

- (1) A person within subsection (2) must seek to enter into co-operation arrangements with—
- (a) another person within that subsection, or
  - (b) the governing body of an institution in Wales within the further education sector,
- if the person considers that entering into such arrangements would facilitate the exercise of a function conferred on the person by or under this Act.
- (2) The persons are—
- (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee for a pupil referral unit;
  - (f) a local authority in Wales.
- (3) If a person seeks to enter into co-operation arrangements with another person in accordance with subsection (1), the other person must consider the request.
- (4) In this section, “co-operation arrangements” means—
- (a) arrangements made in exercise of the powers of collaboration described in section 5 of the Education (Wales) Measure 2011 (nawm 7), or
  - (b) arrangements of a similar kind made by or with—
    - (i) the head teacher of a maintained school or a maintained nursery school,
    - (ii) a provider of funded non-maintained nursery education,
    - (iii) the teacher in charge of a pupil referral unit, or
    - (iv) the management committee for a pupil referral unit.

#### **66 Welsh Ministers' duty to facilitate the performance of functions**

- (1) The Welsh Ministers must exercise their functions with a view to facilitating the performance of functions, by persons within subsection (2), that are conferred on them by or under Parts 2 to 4.
- (2) The persons are—
- (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee for a pupil referral unit;
  - (f) a person who provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit by

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virtue of arrangements made under section 19A of the Education Act 1996 (c. 56);

- (g) a local authority in Wales.

## **67 Local authorities' duty to facilitate the performance of functions**

- (1) A local authority in Wales must exercise its functions with a view to facilitating the performance of functions, by persons within subsection (2), that are conferred on them by or under Parts 2 to 4.
- (2) The persons are—
- (a) the head teacher of a maintained school or a maintained nursery school that is maintained by the local authority;
  - (b) the governing body of a maintained school or a maintained nursery school that is maintained by the local authority;
  - (c) a provider of funded non-maintained nursery education secured by the local authority;
  - (d) the teacher in charge of a pupil referral unit maintained by the local authority;
  - (e) the management committee for a pupil referral unit maintained by the local authority.
- (3) Subsection (4) applies where a local authority makes arrangements under section 19A of the Education Act 1996 (c. 56) for the provision of education to a child otherwise than at—
- (a) a maintained school or maintained nursery school that is maintained by the local authority, or
  - (b) a pupil referral unit that is maintained by the local authority.
- (4) The authority must exercise its functions with a view to facilitating the performance of their relevant functions by persons within subsection (5).
- (5) The persons are—
- (a) where the child is provided with the education at a maintained school or a maintained nursery school that is maintained by another local authority, the head teacher and governing body of the school;
  - (b) where the child is provided with the education at a pupil referral unit that is maintained by another local authority, the teacher in charge of the unit, the management committee for the unit (if there is one) and that authority;
  - (c) where the education is provided for the child otherwise than at a maintained school or pupil referral unit, any person who provides it.
- (6) The “relevant functions” of a person within subsection (5) are the functions conferred on that person, by or under Parts 2 to 4, in respect of the education.

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## PROSPECTIVE

*Welsh language***68 Welsh Ministers' duty to promote access etc to Welsh medium courses of study**

- (1) The Welsh Ministers must promote access to, and the availability of, courses of study taught through the medium of the Welsh language for children to whom this Act applies.
- (2) In this section, “course of study” means a course of education or training that—
  - (a) leads to a form of qualification or set of forms of qualification approved under Part 4 of the Qualifications Wales Act 2015 (anaw 5) or designated under Part 5 of that Act, or
  - (b) is designated by the Welsh Ministers under section 34(8) of that Act.

*Specific provision for further settings etc***69 Power to make provision for children receiving education in more than one setting etc**

- (1) Regulations may make provision for and in connection with teaching and learning to be secured for children of compulsory school age to whom this section applies.
- (2) This section applies to a child who is a registered pupil at a maintained school if—
  - (a) education is provided for the child, either by virtue of arrangements made under section 19A of the Education Act 1996 (c. 56) or otherwise—
    - (i) at another maintained school, or
    - (ii) at a maintained nursery school;
  - (b) education is provided for the child under section 19A of the Education Act 1996 at a pupil referral unit;
  - (c) education is provided for the child under section 19A of the Education Act 1996, otherwise than at a pupil referral unit, maintained school or maintained nursery school.
- (3) This section applies to a child who is a registered pupil at a maintained nursery school if—
  - (a) education is provided for the child, either by virtue of arrangements made under section 19A of the Education Act 1996 or otherwise—
    - (i) at another maintained nursery school, or
    - (ii) at a maintained school;
  - (b) education is provided for the child at a pupil referral unit;
  - (c) education is provided for the child under section 19A of the Education Act 1996, otherwise than at a pupil referral unit, maintained school or maintained nursery school.

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- (4) This section applies to a child who is a registered pupil at a pupil referral unit if education is provided for the child, by virtue of arrangements made under section 19A of the Education Act 1996—
- (a) at another pupil referral unit, or
  - (b) otherwise than at a pupil referral unit or a maintained school or maintained nursery school.
- (5) This section applies to a child if the child—
- (a) is not above compulsory school age, and
  - (b) is of a description specified in the regulations.
- (6) Regulations under this section may also make provision for and in connection with the making, and implementation, of arrangements for assessing the following matters—
- (a) the progress made by children to whom this section applies;
  - (b) the next steps in their progression;
  - (c) the teaching and learning needed to make that progress.
- (7) The regulations may—
- (a) confer functions on a person within subsection (8);
  - (b) apply a provision made by or under this Act in respect of children to whom this section applies, with or without modifications;
  - (c) provide for a provision made by or under this Act, that would otherwise apply in respect of those children, not to do so.
- (8) The persons are—
- (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) the teacher in charge of a pupil referral unit;
  - (d) the management committee for a pupil referral unit;
  - (e) a person who provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit by virtue of arrangements made under section 19A of the Education Act 1996;
  - (f) a provider of funded non-maintained nursery education;
  - (g) a local authority in Wales.

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## **70 Power to apply Act to detained children and detained young persons**

- (1) Regulations may apply provisions of this Act, with or without modifications, to—
- (a) detained children in Wales of a description specified in the regulations, and
  - (b) detained young persons in Wales of a description specified in the regulations.
- (2) In this section, a detained child or detained young person means a child or young person who is detained in pursuance of—
- (a) an order made by a court, or

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(b) an order of recall made by the Secretary of State.

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### *Guidance*

#### **71 Duty to have regard to guidance**

- (1) The Welsh Ministers may issue guidance in relation to the exercise of functions conferred by or under this Act.
- (2) Before issuing guidance under this section, the Welsh Ministers must consult the persons they think appropriate (if any).
- (3) In exercising their functions, the following persons must have regard to any guidance issued by the Welsh Ministers under this section—
  - (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee for a pupil referral unit;
  - (f) a person who provides teaching and learning for a child, otherwise than at a maintained school, maintained nursery school or pupil referral unit, by virtue of arrangements made under section 19A of the Education Act 1996 (c. 56);
  - (g) a local authority in Wales.

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