
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (“the Act”).

The Act establishes a statutory framework for supporting children and young people with additional learning needs. This replaces the legislation surrounding special educational needs and the assessment of children and young people with learning difficulties.

The provisions listed in article 3 come into force on 1 September 2021 in relation to those who are not over compulsory school age, attend a maintained school (not including a pupil referral unit) and who have identified special educational needs. It excludes some others engaged with the current statutory framework including those with a statement of special educational needs.

Article 1 contains definitions, including the “new law” in the Act and the “old law” in Part 4 of the Education Act 1996. Until a child is transferred to the new law the old law will continue to apply to the child and the new law will not have effect.

This Order requires the governing body to give a notice to a child in a particular year group in a particular school year (articles 9 to 11). For example, a child in a nursery class, or in year 1, 3, 5, 7, or 10 will transfer to the new law during the school year 2021-2022. The date of the notice given to a particular child will be the date that child transfers to the new law.

The governing body can give the child an IDP notice or a no needs notice. An IDP notice means that the child is deemed to have additional learning needs for the purposes of Chapter 2 of Part 2 of the Act on the date of the notice and that it is intended that an individual development plan is prepared for the child (article 5). A no needs notice means that the child is deemed not to have additional learning needs for the purposes of Chapter 2 of Part 2 of the Act on the date of the notice (article 6).

Where an individual development plan is prepared following an IDP notice, the governing body must give a copy of the individual development plan to the child and the child’s parent within 35 school days of the date of the notice unless certain circumstances apply (article 13).

If the governing body fails to provide a child with a notice during the school year the child should have transferred to the new law, the old law ceases and the new law has effect on the final day of the relevant school year (articles 14 to 16).

A child with identified special educational needs or the child’s parent can request that a notice is given (article 12).

When preparing an individual development plan for a child with identified special educational needs regard must be had to the special educational provision the child was receiving immediately before the IDP notice was given (article 17).