

ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) BILL – STAGE 2 GOVERNMENT AMENDMENTS

This table provides information about the amendments tabled in the name of Alun Davies AM on **21 July 2017**. Further amendments for consideration at Stage 2 will be tabled by the Minister for Lifelong Learning and the Welsh Language in due course.

No.	GOVERNMENT AMENDMENT	GWELLIANT Y LLYWODRAETH	PURPOSE AND EFFECT
22	<p>Section 4, page 5, after line 16, insert—</p> <p>‘() The code must include the following requirements on governing bodies and local authorities—</p> <p>(a) a requirement under subsection (4)(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 9(4), 11(3), 16(3) or 37(4) before the end of a period of time specified in the code, subject to any exceptions to the requirement specified in the code;</p> <p>(b) a requirement under subsection (4)(b)(ii) to prepare an individual development plan and give a copy of it in accordance with</p>	<p>Adran 4, tudalen 5, ar ôl llinell 15, mewnosoder—</p> <p>‘() Rhaid i'r cod gynnwys y gofynion a ganlyn ar gyrff llywodraethu ac awdurdodau lleol—</p> <p>(a) gofyniad o dan is-adran (4)(b)(i) i'r hysbysiad o benderfyniad nad oes gan blentyn neu berson ifanc anghenion dysgu ychwanegol gael ei roi yn unol ag adran 9(4), 11(3), 16(3) neu 37(4) cyn diwedd cyfnod o amser a bennir yn y cod, yn ddarostyngedig i unrhyw eithriadau i'r gofyniad a bennir yn y cod;</p> <p>(b) gofyniad o dan is-adran (4)(b)(ii) i lunio cynllun datblygu unigol a rhoi copi ohono yn unol ag adran 20 neu 37(5) cyn diwedd cyfnod o</p>	<p>The purpose of this amendment is to insert requirements on the Welsh Ministers to include in the Code:</p> <p>a) mandatory timescales for local authorities and governing bodies-</p> <p>a. to give notice of a decision that a child or young person does not have additional learning needs (in cases where that is the body's decision);</p> <p>b. to prepare and give a copy of an individual development plan (“IDP”) (for cases where it is decided that the person has additional learning needs),</p> <p>subject to any exceptions specified in the Code; and</p> <p>b) one or more mandatory IDP</p>

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	<p>section 20 or 37(5) before the end of a period of time specified in the code, subject to any exceptions to the requirement specified in the code;</p> <p>(c) a requirement under subsection (4)(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.’.</p>	<p>amser a bennir yn y cod, yn ddarostyngedig i unrhyw eithriadau i’r gofyniad a bennir yn y cod;</p> <p>(c) gofyniad o dan is-adran (4)(b)(ii) i ddefnyddio’r ffurf safonol briodol a nodir yn y cod ar gyfer cynllun datblygu unigol; a rhaid i’r cod gynnwys un neu ragor o ffurfiau safonol at y diben hwn.’.</p>	<p>forms (i.e. templates) and a requirement on governing bodies and local authorities to use the appropriate form.</p> <p>The effect of this amendment is that:</p> <p>a) the Code must include timescales within which governing bodies and local authorities must carry out their most fundamental functions under the system established by the Bill (subject to any exceptions that may be specified); and</p> <p>b) the Code must include one or more mandatory IDP forms which must be used by governing bodies and local authorities, in order to provide for greater consistency and facilitate portability.</p>
23	Section 12, page 12, leave out line 10.	Adran 12, tudalen 12, hepgorer llinell 11.	The purpose of this amendment is to remove the power at section 12(7)(c) to prescribe in regulations types of provision (other than additional learning provision) that must be included in an IDP in the circumstances set out in

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			<p>section 12(6).</p> <p>The effect of this amendment is that the Welsh Ministers will not be able to make regulations prescribing other types of provision.</p> <p>This amendment links to amendment 24.</p>
24	Section 17, page 15, leave out line 22.	Adran 17, tudalen 15, hepgorer llinell 23.	<p>The purpose of this amendment is to remove the power at section 17(6)(c) to prescribe in regulations types of provision (other than additional learning provision) that must be included in an IDP in the circumstances set out in section 17(5).</p> <p>The effect of this amendment is that the Welsh Ministers will not be able to make regulations prescribing other types of provision.</p> <p>This amendment links to amendment 23.</p>
25	Section 19, page 16, line 35, after 'person's' insert 'additional learning'.	Adran 19, tudalen 16, llinell 36, ar ôl 'anghenion', mewnosoder 'dysgu ychwanegol'.	<p>The purpose of this amendment is to add the words "additional learning" before "needs".</p> <p>The effect of the amendment is that the 'needs' of a child or young person referred to in section 18 and 19 are</p>

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			always the child or young person's 'additional learning needs'.
26	<p>Section 19, page 17, after line 6, insert—</p> <p>‘() If an NHS body does not identify a relevant treatment or service that is likely to be of benefit in addressing a child’s or young person’s additional learning needs following a referral under section 18 it must—</p> <p>(a) inform the body that made the referral of that fact, and</p> <p>(b) if the referral was not made by a body that maintains an individual development plan for the child or young person, inform the body that maintains the individual development plan of that fact.’.</p>	<p>Adran 19, tudalen 17, ar ôl llinell 7, mewnosoder—</p> <p>‘() Os nad yw corff GIG yn nodi triniaeth berthnasol neu wasanaeth perthnasol sy’n debygol o fod o fudd o ran ymdrin ag anghenion dysgu ychwanegol plentyn neu berson ifanc yn dilyn atgyfeiriad o dan adran 18 rhaid iddo—</p> <p>(a) rhoi gwybod i’r corff a atgyfeiriodd y mater am y ffaith honno, a</p> <p>(b) os nad corff sy’n cynnal cynllun datblygu unigol ar gyfer y plentyn neu’r person ifanc a atgyfeiriodd y mater, roi gwybod i’r corff sy’n cynnal y cynllun datblygu unigol am y ffaith honno.’.</p>	<p>The purpose of this amendment is to insert a requirement on an NHS body, where there has been a referral to it under section 18, to inform the body which made the referral, and, if different, the body that maintains an IDP, if it does not identify a relevant treatment or service that is likely to be of benefit in addressing the additional leaning needs of the child or young person (the NHS body is already required under section 19(1) to inform those other bodies if it identifies such a relevant treatment or service).</p> <p>The effect of this amendment is that NHS bodies are required to inform those other bodies of the outcome a referral made under section 18, irrespective of the nature of that outcome.</p>
27	<p>Section 19, page 18, after line 4, insert—</p> <p>‘(9) Regulations may provide that where an NHS body is under a duty to inform under subsection (1) or <i>(subsection to be inserted by amendment 26)</i>, it must comply with</p>	<p>Adran 19, tudalen 18, ar ôl llinell 4, mewnosoder—</p> <p>‘(9) Caiff rheoliadau ddarparu, pan fo corff GIG o dan ddyletswydd i roi gwybod o dan isadran (1) neu <i>(yr is-adran sy’n cael ei mewnosod gan</i></p>	<p>The purpose of this amendment is to provide the Welsh Ministers with a power to set out in regulations a timescale within which an NHS body must inform the referring body (and, if different, the body maintaining an IDP)</p>

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	that duty within a prescribed period, unless a prescribed exception applies.’.	<i>welliant</i> 26), fod rhaid iddo gydymffurfio â'r ddyletswydd honno o fewn cyfnod rhagnodedig, oni bai bod eithriad rhagnodedig yn gymwys.’.	of the outcome of its consideration under section 18(4) (i.e. whether or not there is a relevant treatment or service that is likely to be of benefit in addressing the additional learning needs of the child or young person). It also allows for the regulations to include exceptions to the timescale. The effect of this amendment is that, as with section 58 (duties to provide information and other help), there is a power to set out in regulations timescales for compliance with statutory duties (and to set out exceptions) in relation to bodies (in this case, NHS bodies) that are not subject to mandatory requirements set out in the ALN Code.
28	Section 57, page 39, line 30, leave out ‘power’ and insert ‘duty’.	Adran 57, tudalen 39, llinell 31, hepgorer ‘bŵer’ a mewnosoder ‘ddyletswydd’.	Consequential to amendment 29
29	Section 57, page 39, line 33, leave out ‘may’ and insert ‘must’.	Adran 57, tudalen 39, llinell 33, hepgorer ‘caiff y’ a mewnosoder ‘rhaid i’r’.	The purpose and effect of this amendment is to turn the power of a health body to bring to the attention of a local authority its opinion that a child of below compulsory school age has, or probably has additional learning needs, into a duty to do so (if it is satisfied that that it would be in the best interests of

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			the child to do so and having given the parent an opportunity to discuss its opinion).
30	Section 85, page 56, line 25, after '12(1)(c)(ii),', insert '36(2),'.	Adran 85, tudalen 56, llinell 24, ar ôl '12(1)(c)(ii),', mewnosoder '36(2),'.	<p>The purpose of this amendment is to require that regulations which may be made under section 36(2) (related to the definition of “home authority”, which is relevant to the provisions in the Bill related to detained persons) are subject to affirmative rather than negative resolution procedure.</p> <p>The effect of this amendment is that such regulations cannot be made unless a draft of them has been laid before and approved by the National Assembly</p> <p>This amendment links to amendment 35.</p>
31	Section 85, page 56, line 25, leave out 'or 76' and insert ', 76 or 86(8)'.	Adran 85, tudalen 56, llinell 24, hepgorer 'neu 76' a mewnosoder ', 76 neu 86(8)'.	<p>The purpose of this amendment is to require that regulations which may be made under section 86(8) (amending the definition of “NHS Body” so that it includes a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006), are subject to affirmative rather than negative resolution procedure.</p> <p>The effect of this amendment is that</p>

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			such regulations cannot be made unless a draft of them has been laid before and approved by the National Assembly.
32	Section 85, page 56, after line 25, insert— ‘() the first regulations made under section 13(2);’.	Adran 85, tudalen 56, ar ôl llinell 24, mewnosoder— ‘() y rheoliadau cyntaf a wneir o dan adran 13(2);’.	The purpose of this amendment is to require the first regulations which may be made under section 13(2) (in relation to the categories of looked after children for the purposes of the Social Services and Well-being (Wales) Act 2014 who are not to be treated as looked after for the purposes of this Bill) to be subject to affirmative rather than negative resolution procedure. The effect of this amendment is that the first such regulations cannot be made unless a draft of them has been laid before and approved by the National Assembly Any subsequent regulations are subject to negative resolution procedure.
33	Schedule 1, page 66, line 16, leave out ‘or 579(3C)’.	Atodlen 1, tudalen 66, llinell 17, hepgorer ‘or 579(3C)’.	Consequential to amendment 35.
34	Schedule 1, page 66, line 16, after ‘or’ at the third place where it appears, insert ‘(unless subsection (2BA) applies)’.	Atodlen 1, tudalen 66, llinell 17, ar ôl ‘or’ yn y trydydd lle y mae'n ymddangos, mewnosoder ‘(unless subsection (2BA) applies)’.	Consequential to amendment 35.

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35	<p>Schedule 1, page 66, after line 16, insert—</p> <p>‘() after subsection (2B), insert—</p> <p>“(2BA) A statutory instrument which contains (whether alone or with other provision) regulations made by the Welsh Ministers under both section 562J(4) and section 36(2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2017 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.</p> <p>(2BB) A statutory instrument which contains (whether alone or with other provision) regulations under section 579(3C) may not be made unless a draft of the instrument has been</p>	<p>Atodlen 1, tudalen 66, ar ôl llinell 17, mewnosoder—</p> <p>‘() ar ôl is-adran (2B), mewnosoder—</p> <p>“(2BA) A statutory instrument which contains (whether alone or with other provision) regulations made by the Welsh Ministers under both section 562J(4) and section 36(2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2017 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.</p> <p>(2BB) A statutory instrument which contains (whether alone or with other provision) regulations under section 579(3C) may not be made unless</p>	<p>This amendment has two purposes:</p> <p>The first purpose is to amend the Education Act 1996 so that if a statutory instrument is to be made containing regulations under both section 562J(4) of the Education Act 1996 and section 36(2) of the Bill (both of which relate to the meaning of “home authority” in respect of detained persons), it will be subject to affirmative rather than negative resolution procedure.</p> <p>The effect is to enable regulations made under section 36(2) (which amendment 31 makes subject to affirmative resolution procedure) to be made in the same instrument as regulations under section 562J(4) (which may be made by negative resolution procedure), and for the instrument to be subject to affirmative resolution procedure.</p> <p>The second purpose is to require that regulations which may be made to make further provision about the meaning of references in the Education Act 1996 to a person who is “in the area” of a local authority in Wales (in regulations under subsection (3C) of section 579 of that Act as inserted by section 82(c) of the</p>

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	laid before, and approved by resolution of, the National Assembly for Wales.”;’.	a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.”;’.	Bill), are subject to the affirmative rather than negative resolution procedure. The effect of this is that such regulations cannot be made unless a draft of them has been laid before and approved by the National Assembly.
36	Schedule 1, page 74, after line 14, insert— () In section 196 (orders and regulations), in subsection (6), after paragraph (c) insert — “(ca) the first regulations made under section 83(2B);”.’.	Atodlen 1, tudalen 74, ar ôl llinell 15, mewnosoder— () Yn adran 196 (gorchmynion a rheoliadau), yn is-adran (6), ar ôl paragraff (c) mewnosoder — “(ca) y rheoliadau cyntaf a wneir o dan adran 83(2B);”.’.	The purpose of this amendment is to require the first regulations which may be made under the power inserted by section 14(2) (in relation to the categories of looked after children for whom no personal education plan is to be prepared) into section 83 of the Social Services and Well-being (Wales) Act 2014 (i.e. the power in the new section 83(2B) of the 2014 Act), to be subject to the affirmative rather than negative resolution procedure. The effect of this amendment is that the first such regulations (i.e. under the new section 83(2B) of the 2014 Act) cannot be made unless a draft of them has been laid before and approved by the National Assembly. Any subsequent regulations are subject to negative resolution procedure.