

## 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 **30 June 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
1	Section 4, page 4, after line 18, insert—  ( ) 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.’.	Adran 4, tudalen 4, ar ôl llinell 18, mewnosoder—  ( ) Caiff y cod gynnwys canllawiau ynghylch arfer swyddogaethau o dan y Rhan hon ac ynghylch unrhyw fater arall sy’n gysylltiedig â nodi a diwallu anghenion dysgu ychwanegol.’.	The purpose of this amendment is to insert provision which enables the Code to provide guidance on other matters connected with additional learning needs, not just about the exercise of functions under the Bill.  The effect of this amendment is that the Code can provide guidance more generally about additional learning needs matters, including to publicly funded non-maintained providers of nursery education.  This amendment links to amendments 4 and 21.
2	Section 4, page 4, line 19, leave out ‘code may include guidance relating to the exercise of the functions of the following persons under this Part’ and insert ‘following persons must, when exercising functions under this Part, have regard to any relevant guidance contained in the code’.	Adran 4, tudalen 4, llinell 19, hepgorer ‘Caiff y cod gynnwys canllawiau sy’n ymwneud ag arfer swyddogaethau’r personau a ganlyn o dan y Rhan hon’ a mewnosoder ‘Rhaid i’r personau a ganlyn, wrth arfer swyddogaethau o dan y Rhan hon, roi sylw i unrhyw ganllawiau perthnasol sydd wedi eu cynnwys yn y cod’.	Consequential to amendment 1.
3	Section 4, page 4, leave out lines 25 to 27.	Adran 4, tudalen 4, hepgorer llinellau 25 hyd at 27.	Consequential to amendments 1, 4 and 21
4	Section 4, page 4, after line 36, insert—  ( ) For provision about local authorities	Adran 4, tudalen 4, ar ôl llinell 37, mewnosoder—	This is a technical amendment to provide a signpost to provision to be inserted by amendment 21 which places

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	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)).’.	‘() Gweler adran 153 o Ddeddf Addysg 2002 (p. 32) am ddarpariaeth ynghylch awdurdodau lleol yn ei gwneud yn ofynnol i ddarparwyr penodol addysg feithrin roi sylw i ganllawiau sydd wedi eu cynnwys yn y cod.’.	a requirement on local authorities related to the Code in the arrangements they make for the provision of non-maintained nursery education.
5	Section 4, page 5, line 1, leave out subsection (3).	Adran 4, tudalen 5, llinell 1, hepgorer is-adran (3).	Consequential to amendment 2.
6	Section 4, page 5, line 21, leave out ‘(3)’ and insert ‘(2)’.	Adran 4, tudalen 5, llinell 20, hepgorer ‘(3)’ a mewnosoder ‘(2)’.	Consequential to amendments 2 and 5.
7	Section 5, page 6, line 5, leave out subsection (3) and insert—  ‘() The Welsh Ministers must not issue a code unless a draft of it is approved by a resolution of the National Assembly for Wales.’.	Adran 5, tudalen 6, llinell 5, hepgorer is-adran (3) a mewnosoder—  ‘() Ni chaiff Gweinidogion Cymru ddyroddi cod oni bai bod drafft ohono wedi ei gymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.’.	The purpose of this amendment is to change the process for making the Code (and revised Codes) from a draft negative resolution procedure to an affirmative resolution procedure  The effect is that issuing the first Code and any subsequent revised Code are subject to National Assembly approval.
8	Section 5, page 6, line 8, leave out ‘no such resolution is made before the end of that period’ and insert ‘the National Assembly for Wales resolves to approve a draft of the code’.	Adran 5, tudalen 6, llinell 8, hepgorer ‘na wneir penderfyniad o’r fath cyn diwedd y cyfnod hwnnw’ a mewnosoder ‘yw Cynulliad Cenedlaethol Cymru yn penderfynu cymeradwyo drafft o’r cod’.	Consequential to amendment 7.
9	Section 5, page 6, line 16, leave out subsection (6).	Adran 5, tudalen 6, llinell 16, hepgorer is-adran (6).	Consequential to amendment 7.
10	Section 14, page 13, line 21, after ‘age’, insert ‘(within the meaning given by section 8 of the	Adran 14, tudalen 13, llinell 21, ar ôl ‘gorfodol’, mewnosoder ‘(o fewn yr ystyr a roddir l “compulsory school age” gan adran 8 o Ddeddf	The purpose of this amendment is to include a definition of ‘compulsory school age’ in a provision to be inserted into the Social Services and Well-being Act (Wales)

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	Education Act 1996 (c. 56))’.	Addysg 1996 (p. 56))’.	<p>2014 and thereby ensure it has the same meaning as it has in the Education Acts.</p> <p>The effect is to ensure that the meaning of “child” for the purposes of subsection (2C) (which is to be inserted into section 83 of the Social Services and Well-being (Wales) Act 2014) is aligned with its meaning in the Bill.</p>
11	<p>Section 17, page 15, line 5, leave out 'unless either of the circumstances in subsection (3) apply.</p> <p>(3) The circumstances are—</p> <p>(a) the child is in the area of a local authority in England;</p> <p>(b) the child is ordinarily resident outside England and Wales.’</p> <p>and insert ‘if the child is in the area of a local authority in Wales.’.</p>	<p>Adran 17, tudalen 15, llinell 5, hepgorer ‘oni bai bod unrhyw un neu ragor o’r amgylchiadau yn is-adran (3) yn gymwys.</p> <p>(3) Yr amgylchiadau yw—</p> <p>(a) bod y plentyn yn ardal awdurdod lleol yn Lloegr;</p> <p>(b) bod y plentyn yn preswyllo fel arfer y tu allan i Gymru a Lloegr.’</p> <p>a mewnosoder ‘os yw’r plentyn yn ardal awdurdod lleol yng Nghymru.’</p>	<p>The purpose of this amendment is to remove the exceptions to the duty to prepare and maintain an IDP for a looked after child who has additional learning needs (including the exception referring to ‘ordinary residence’) and instead the duty will apply where the child is in the area of a local authority in Wales (which may not be the one that is looking after the child).</p> <p>The effect is to simplify the test for whether a local authority looking after a child who has additional learning needs must prepare and maintain an IDP for that child. In doing so, it employs the test of someone being “in the area of” a local authority, which is used elsewhere in the Bill and education law more generally. There is a partial definition of the term provided for by section 82 and a related regulation power.</p>
12	<p>Section 29, page 24, line 24, after ‘13))’, insert—</p> <p>‘, or</p> <p>( ) he or she ceases to be in the area of a local authority in Wales’.</p>	<p>Adran 29, tudalen 24, llinell 26, ar ôl ‘13))’, mewnosoder—</p> <p>‘, neu</p> <p>( ) os yw’n peidio â bod yn ardal awdurdod lleol yng Nghymru’.</p>	<p>The purpose of the amendment is to make clear that when a looked after child is no longer in the area of a local authority in Wales, the duty of the local authority looking after the child to prepare and maintain an IDP no longer applies.</p> <p>The effect is that the Bill (sections 17 and 29) is clear and consistent on the extent of local authority duties in</p>

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			respect of children they look after.
13	Section 29, page 24, line 31, leave out 'decides'.	Adran 29, tudalen 24, llinell 33, hepgorer 'yn penderfynu'.	Consequential to amendment 15.
14	Section 29, page 24, at the beginning of line 32, insert 'decides'.	Adran 29, tudalen 24, ar ddechrau llinell 34, mewnosoder 'yn penderfynu'.	Consequential to amendments 13 and 15.
15	Section 29, page 24, line 33, leave out 'it is no longer necessary to maintain it, having regard to' and insert 'decides in accordance with regulations that it is no longer necessary to maintain it to meet'.	Adran 29, tudalen 24, llinell 36, hepgorer 'nad oes angen cynnal y cynllun mwyach, gan roi sylw i'  a mewnosoder 'yn penderfynu yn unol â rheoliadau nad oes angen cynnal y cynllun mwyach i ddiwallu'.	<p>The purpose of the amendment is to insert a requirement that when a local authority is deciding whether it is no longer necessary to maintain an IDP for a young person (other than where it decides that the young person no longer has additional learning needs), it must do so in accordance with regulations and the question is whether it is no longer necessary to maintain it to meet the person's reasonable needs for education or training.</p> <p>The effect is to more closely align the position regarding a local authority decision to cease to maintain an IDP for a young person with the position regarding a local authority deciding whether it is necessary to prepare and maintain an IDP for a young person who is not at a maintained school or an FEI (section 12(1)(c)(ii)). In both instances, the local authority must decide upon the necessity of maintaining a plan in accordance with regulations (though regulations may set out different factors for each decision) and the question is whether it is necessary to meet the young person's reasonable needs for education or training.</p> <p>Amendment 20 is linked to this one.</p>

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16	Section 33, page 27, line 20, leave out '(c)' and insert '(a) and (b)'.	Adran 33, tudalen 27, llinell 20, hepgorer '(c)' a mewnosoder '(a) a (b)'.	The purpose of this amendment is to correct a cross-reference.
17	Section 45, page 34, line 32, leave out '(d)' and insert '(c)'.	Adran 45, tudalen 34, llinell 34, hepgorer '(d)' a mewnosoder '(c)'.	Consequential to amendment 18.
18	Section 45, page 35, leave out line 3.	Adran 45, tudalen 35, hepgorer llinell 3.	<p>The purpose is to remove the power under section 45(2)(d) to prescribe further exceptions to the duty to secure a mainstream maintained education for children of compulsory school age with ALN who should be educated in a school.</p> <p>The effect is that a regulation making power is removed. The only exceptions to the duty will be those set out in section 45(2)(a) to (c).</p>
19	<p>Page 39, after line 5, insert a new section—</p> <p><b>‘[] Early years additional learning needs lead officer</b></p> <p>(1) A local authority must designate an officer to have responsibility for co-ordinating the authority’s functions under this Part in relation to children under compulsory school age who are not attending maintained schools.</p> <p>(2) An officer designated under this section is to be known as an “early years additional learning needs lead officer”.’.</p>	<p>Tudalen 39, ar ôl llinell 5, mewnosoder adran newydd—</p> <p><b>‘[] Swyddog arweiniol anghenion dysgu ychwanegol blynyddoedd cynnar</b></p> <p>(1) Rhaid i awdurdod lleol ddynodi swyddog i fod â chyfrifoldeb am gydlynw swyddogaethau'r awdurdod o dan y Rhan hon mewn perthynas â phlant sydd o dan yr oedran ysgol gorfodol nad ydynt yn mynychu ysgolion a gynhelir.</p> <p>(2) Mae swyddog sydd wedi ei ddynodi o dan yr adran hon i gael ei alw'n "swyddog arweiniol anghenion dysgu</p>	<p>The purpose of this amendment is to insert a requirement for a local authority to designate an individual with responsibility for coordinating the authority’s functions in relation to children under compulsory school age, who have or may have ALN, and are not in a maintained nursery or school.</p> <p>The effect of this amendment is that every local authority will have an officer dedicated to the co-ordination of the authority’s functions for this group of children.</p>

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		ychwanegol blynyddoedd cynnar”.’.	
20	Section 85, page 56, line 25, after ‘12(1)(c)(ii),’, insert ‘29(6)(b),’.	Adran 85, tudalen 56, llinell 24, ar ôl ‘12(1)(c)(ii),’, mewnosoder ‘29(6)(b),’.	<p>The purpose of this amendment is to make the regulations, the power for which would be inserted into the Bill by amendment 15, subject to the affirmative procedure.</p> <p>The effect is that regulations under section 29 (relating to whether it is no longer necessary to maintain an IDP for a young person – see amendment 15) are subject to the affirmative procedure. This is the same procedure applicable to regulations under section 12(1)(c)(ii) (related to whether it is necessary to prepare and maintain an IDP for a young person not in a maintained school or further education institution).</p>
21	<p>Schedule 1, page 69, after line 29, insert—</p> <p><i>‘Education Act 2002 (c.32)</i></p> <p>□ (1) The Education Act 2002 is amended as follows.</p> <p>(2) In section 153(2) (funded nursery education), after paragraph (a) insert—</p> <p style="padding-left: 40px;">“(ab) must make provision in the arrangements requiring the provider of the nursery education to have regard to any relevant guidance included in the code on additional learning needs issued under section 4 of the Additional Learning Needs</p>	<p>Atodlen 1, tudalen 69, ar ôl llinell 31, mewnosoder—</p> <p><i>‘Deddf Addysg 2002 (p. 32)</i></p> <p>□ (1) Mae Deddf Addysg 2002 wedi ei diwygio fel a ganlyn.</p> <p>(2) Yn adran 153(2) (addysg feithrin a gyllidir), ar ôl paragraff (a) mewnosoder—</p> <p style="padding-left: 40px;">“(ab) must make provision in the arrangements requiring the provider of the nursery education to have regard to any relevant guidance included in the code on additional learning needs</p>	<p>The purpose of this amendment is to insert a duty requiring the arrangements under which non-maintained providers of nursery education are funded by local authorities, to include a requirement on the providers to have regard to any relevant guidance in the Code.</p> <p>The effect will be that non-maintained publicly funded providers of nursery education will be subject to an enforceable duty to have regard to any relevant guidance in the Code. Their funding arrangements with local authorities will include such a requirement and the local authorities will be required to exercise their functions with a view to ensuring that the provider meets the requirement (section 153(2)(b)).</p>

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	and Education Tribunal (Wales) Act 2017, and". '.	issued under section 4 of the Additional Learning Needs and Education Tribunal (Wales) Act 2017, and". '.	