



# Learning and Skills (Wales) Measure 2009

## 2009 nawm 1

### PART 3

#### SERVICES RELATED TO EDUCATION, TRAINING AND SKILLS

##### *Learner support services*

#### **40 Provision of services by maintained schools and further education institutions**

- (1) The Welsh Ministers may direct a person mentioned in subsection (2)—
  - (a) to provide learner support services;
  - (b) to secure the provision of learner support services;
  - (c) to participate in the provision of learner support services.
- (2) The persons are—
  - (a) the governing body of a maintained school in Wales;
  - (b) the governing body of an institution within the further education sector in Wales.
- (3) In this section “learner support services” means services which in the opinion of the Welsh Ministers will encourage, enable or assist young persons (directly or indirectly)  
—
  - (a) to participate effectively in education or training;
  - (b) to take advantage of opportunities for employment; or
  - (c) to participate effectively and responsibly in the life of their communities.
- (4) A direction under subsection (1)—
  - (a) may include provision for grants, loans and other kinds of financial assistance to be provided by the Welsh Ministers (whether or not on conditions);
  - (b) may require a governing body to have regard to guidance given by the Welsh Ministers;

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- (c) may require a governing body when making arrangements with other persons to require those persons to have regard to guidance given by the Welsh Ministers.
- (5) A direction under subsection (1)—
- (a) may relate to a particular class of young person;
  - (b) may make different provision for different classes of young person;
  - (c) may be revoked or varied by a later direction.
- (6) Where a direction under subsection (1) relates to the provision of a service in the form of advice or information, it must be framed so that—
- (a) it relates only to information which is presented in an impartial manner; and
  - (b) it relates only to advice which—
    - (i) is given by a person who considers that it will promote the best interests of the young person concerned; and
    - (ii) does not seek to promote, contrary to the young person's best interests, the interests or aspirations of any school, institution or other person.
- (7) In this section—
- (a) “young persons” means persons who have attained the age of eleven but not the age of twenty six;
  - (b) “institution within the further education sector” has the same meaning as in the Education Act 1996 (c. 56);
  - (c) “maintained school” has the same meaning as in the School Standards and Framework Act 1998 (c. 31).

**Commencement Information**

**11** S. 40 in force at 7.12.2009 by [S.I. 2009/3174](#), [art. 2\(1\)\(k\)](#)

**41 Duties of governing bodies**

- (1) A governing body of a maintained school or institution within the further education sector must comply with a direction given to it under section 40(1).
- (2) Action which a governing body takes in pursuance of subsection (1) may relate to a particular class of young person.

**Commencement Information**

**12** S. 41 in force at 7.12.2009 by [S.I. 2009/3174](#), [art. 2\(1\)\(l\)](#)

**42 Amendments to the Learning and Skills Act 2000**

- (1) The Learning and Skills Act 2000 (c. 21) is amended in accordance with this section.
- (2) In subsection (1) of section 126 of that Act, after “section 123(1)(a) or (b)” insert “ or section 40(1)(a) or (b) of the Learning and Skills (Wales) Measure 2009 ”.
- (3) In subsection (1)(a) of section 127 of that Act, after “section 123(1)” insert “ or section 40(1) of the Learning and Skills (Wales) Measure 2009 ”.

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#### Commencement Information

**I3** S. 42 in force at 7.12.2009 by [S.I. 2009/3174](#), [art. 2\(1\)\(m\)](#)

### *Learning Pathways*

#### **43 The learning pathway document**

- (1) This section makes provision for a relevant pupil and a relevant student to be provided with a document which records his or her learning pathway (a “learning pathway document”).
- (2) In subsection (1), a pupil's or student's “learning pathway” means—
  - (a) the courses of study (if any) that the pupil or student is entitled to follow under [<sup>F1</sup>section 116E(1) of the Education Act 2002 or] section 33F(1) of the Learning and Skills Act 2000; and
  - (b) the learner support services (if any) to be provided to a pupil or student by virtue of section 40 of this Measure.
- (3) The learning pathway document—
  - (a) must be provided within a reasonable period of time following an entitlement arising as described in subsection (2)(a) or a decision being taken to provide services as described in subsection (2)(b); and
  - (b) must subsequently be amended or re-issued within a reasonable period of time following—
    - (i) a variation in such an entitlement or decision; or
    - (ii) such an entitlement arising or such a decision being taken.
- (4) The duty to provide a learning pathway document under subsection (3)(a) is a duty of—
  - (a) in the case of a relevant pupil, the head teacher of the pupil's maintained school when an event described in subsection (3)(a) occurs; and
  - (b) in the case of a relevant student, the principal of the student's institution when an event described in subsection (3)(a) occurs.
- (5) The duty to amend or re-issue a learning pathway document under subsection (3)(b) is a duty of—
  - (a) in the case of a relevant pupil, the head teacher of the pupil's maintained school when an event described in subsection (3)(b) occurs; and
  - (b) in the case of a relevant student, the principal of the pupil's institution when an event described in subsection (3)(b) occurs.
- (6) A head teacher of a maintained school and principal of an institution must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under this section.

#### Textual Amendments

**F1** Words in [s. 43\(2\)\(a\)](#) omitted (1.9.2022 for specified purposes) by virtue of [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), [reg. 1\(3\)](#), [Sch. 2 para. 11\(3\)](#)

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#### Commencement Information

**I4** S. 43 in force at 7.12.2009 by S.I. 2009/3174, art. 2(1)(n)

## 44 Learning pathways: interpretation

In this section and section 43—

“institution” (“*sefydliad*”) means an institution within the further education sector in Wales, and, in relation to a relevant student, means the institution whose governing body is responsible for providing, or arranging for the provision of, all or the majority of his or her education;

“institution within the further education sector” (“*sefydliad yn y sector addysg bellach*”) has the same meaning as in the Education Act 1996 (c. 56);

[<sup>F2</sup> “local authority in Wales” (“*awdurdod lleol yng Nghymru*”) has the meaning given by section 579(1) of the Education Act 1996; ]

“maintained school” (“*ysgol a gynhelir*”) means—

- (a) any community, foundation or voluntary school maintained by a [<sup>F3</sup>local authority] in Wales, or
- (b) any community <sup>F4</sup>... special school which is maintained by a [<sup>F3</sup>local authority] in Wales and is not established in a hospital,

and, in relation to a relevant pupil, means the maintained school of which he or she is a registered pupil;

“principal” (“*pennaeth sefydliad*”) means the principal or other head of an institution;

“registered pupil” (“*disgybl cofrestredig*”) has the same meaning as in section 434 of the Education Act 1996;

“relevant pupil” (“*disgybl perthnasol*”) means a registered pupil of a maintained school; and

“relevant student” (“*myfyriwr perthnasol*”) means a person who—

- (a) receives the majority of his or her education at, or under arrangements made by the governing body of, an institution; and
- (b) has not attained the age of nineteen or such later age as may be prescribed in regulations made by the Welsh Ministers.

#### Textual Amendments

**F2** Words in s. 44 inserted (5.5.2010) by Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **3(3)**

**F3** Words in Measure substituted (5.5.2010) by Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **3(2)**

**F4** Words in s. 44 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 26(2)**; S.I. 2013/1800, art. 3(j)

#### Commencement Information

**I5** S. 44 in force at 7.12.2009 by S.I. 2009/3174, art. 2(1)(o)

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### *Provision of curriculum information*

#### **45 Provision of curriculum information**

- (1) The Education Act 1997 (c. 44) is amended in accordance with this section.
- (2) After section 45A insert—

##### **“45B Provision of curriculum information**

- (1) Subject to subsections (2) and (3), a service provider may demand from a person mentioned in subsection (6) such curriculum information as is specified in the demand.
- (2) A service provider must not demand any curriculum information unless the provider reasonably considers that the information would assist it in providing its services.
- (3) A service provider must not demand any curriculum information which identifies, or allows to be identified, any pupil or student.
- (4) A person mentioned in subsection (6) must comply with a demand made under subsection (1) by providing the service provider with the information demanded.
- (5) A service provider may publish in whatever form it sees fit any curriculum information provided under subsection (4).
- (6) The persons referred to in subsection (1) are—
  - (a) the governing body and head teacher of a school in Wales falling within section 43(2)(a); and
  - (b) the governing body and principal of an institution within the further education sector in Wales.
- (7) In this section—
  - “curriculum information” means—
    - (a) in relation to a school mentioned in subsection (6)(a), information about the curriculum for registered pupils at the school during the relevant phase of their education; and
    - (b) in relation to an institution within the further education sector, information about the courses of study and other education and training available at the institution;
  - “pupil” means, in relation to a school mentioned in subsection (6)(a), a person receiving education at the school;
  - “relevant phase” has the same meaning as in section 43(5);
  - “service provider” means a person providing services in pursuance of arrangements made with, or directions given by, the Welsh Ministers under section 10 of the Employment and Training Act 1973, and “services” shall be construed accordingly; and
  - “student” means, in relation to an institution within the further education sector, a person receiving education at the institution.”

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#### Commencement Information

**I6** S. 45 in force at 7.12.2009 by [S.I. 2009/3174](#), [art. 2\(1\)\(p\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Measure associated Parts and Chapters:**

Whole provisions yet to be inserted into this Measure (including any effects on those provisions):

- s. 43(7) inserted by [2022 asc 1 Sch. 4 para. 25\(3\)](#)