



Llywodraeth Cymru
Welsh Government

The Additional Learning Needs (ALN) Transformation Programme

Frequently Asked Questions (FAQs)

February 2019

This document provides answers to some of the most frequently asked questions about the Additional Learning Needs and Education Tribunal (Wales) Act 2018 and the wider ALN Transformation Programme.

The Act and wider programme will transform the separate systems for special educational needs (SEN) in schools and learning difficulties and/or disabilities (LDD) in further education to create a unified system for supporting learners from 0 to 25 with ALN.

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For further information about the ALN Act and Transformation Programme please visit <https://gov.wales/aln>.

The new system

1. What is the new additional learning needs (ALN) system?

The ALN system is the new statutory support system for children and young people aged 0 to 25 in Wales with ALN that is due to come into force in September 2020.

The legislative framework of the new system is created by the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ('the Act'), the ALN Code for Wales and regulations made under the Act. Through this statutory framework the Welsh Government aims to ensure that all learners with ALN are supported to overcome barriers to learning and can achieve their full potential, by creating:

- a unified legislative framework to support all children of compulsory school age or below with additional learning needs (ALN) and to support young people with ALN who are in school or further education (FE);
- an integrated, collaborative process of assessment, planning and monitoring of the support provided to ALN learners which facilitates early, timely and effective interventions; and
- a fair and transparent system for providing information and advice, and for resolving concerns and appeals.

The Act replaces the terms 'special educational needs (SEN)' and 'learning difficulties and/or disabilities (LDD)' with the new term 'additional learning needs (ALN)'. All children and young people with ALN regardless of the severity or complexity of their learning difficulty or disability will be entitled to a statutory support plan called an 'Individual Development Plan' (IDP). Children and young people with ALN will receive support called additional learning provision (ALP) which will be set out in their IDP.

2. What is ALN?

A learner has ALN if he or she has a learning difficulty or disability which calls for additional learning provision (ALP).

A child of compulsory school age or person over that age has a learning difficulty or disability if he or she:

- (a) has a significantly greater difficulty in learning than the majority of others of the same age, or
- (b) has a disability for the purposes of the Equality Act 2010 which prevents or hinders him or her from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools or mainstream institutions in the further education sector.

A child under compulsory school age has a learning difficulty or disability if he or she is likely to (or would be likely to if no ALP were made) have significantly greater difficulty in learning than the majority of their peers when they reach compulsory school age.

ALP for a learner aged over 3 years means educational or training provision that is additional to, or different from, that made generally for others of the same age in a mainstream school, FEI or nursery education setting in Wales. For those under 3 years old it means educational provision of any kind.

It is possible for a child or young person to have a learning difficulty or disability that does not call for ALP. In these instances such a child or young person would not be considered to have ALN. Further it is important to note that not all learning difficulties or disabilities that arise from a medical condition will call for additional learning provision.

Chapter 7 of the draft ALN Code provides guidance on the process for assessing and deciding whether a child or young person has ALN.

IDPs

3. Who will be entitled to an IDP?

The ALN Act creates a single legislative system for supporting children and young people aged between 0 to 25 years who have ALN. This is instead of the two separate systems currently operating to support children and young people of compulsory school age who have SEN, and young people in further education who have LDD.

The new system replaces existing support plans (including Statements of SEN, individual education plans (IEPs) for learners on school action/ school action plus, and Learning and Skills Plans for post-16 learners) with a new statutory plan called an Individual Development Plan (IDP).

However, the Act does not give young persons with ALN a right to continuous education up to that age. Rather, it is about providing access to further education or training on an equitable basis to persons who do not have ALN.

If a young person has ALN and attends a maintained school or FEI, they will always be entitled to an IDP. However, where a young person with ALN is not attending an FEI or maintained, a local authority will need to decide, in accordance with regulations to be made under the Act, whether it is necessary to maintain an IDP for them.

It is intended that the regulations will set out matters that are relevant when a local authority is considering what, if any, reasonable needs for education or training the young person has. They will also deal with when it is necessary for the local authority to prepare and maintain an IDP for a young person who has a reasonable need for education or training. Chapter 12 of the draft ALN Code reflects what we intend to provide for in these regulations.

The Act does not extend to higher education, work-based learning or apprenticeships. The Welsh Government believes that it would not be appropriate to place duties on employers. If however a learner undertaking work-based learning or an apprenticeship is enrolled as a student at an FEI, the duties on the FEI apply. Also, if the young person agrees for the IDP to

transfer with them to their higher education institution, work-based learning provider or apprenticeship it can be used for transition and to support planning. We are continuing to work with colleagues responsible for apprenticeships and work-based learning to identify the different scenarios and suggest best practice for dealing with them in the Code.

We believe effective use of contractual arrangements is the better way of protecting and promoting the interests of learners with ALN within the work based learning sector.

4. How long does it take to prepare an IDP?

The time taken to prepare an IDP will depend on the nature and scope of a child or young person's needs. Preparing a concise IDP for a child or young person with less severe or complex needs should be a relatively simple and quick process. Such IDPs should form a large majority of those that are prepared. An IDP for a child or young person with severe, complex or low incidence needs is likely to require specialist input and advice and detail a much wider range of interventions. This will necessarily require greater time and effort to prepare but should only be required in a minority of cases.

The draft ALN Code proposes that a school must prepare an IDP promptly, and in any event within 35 school days from, in the case of a pupil who is a child, it being brought to the attention of or otherwise appearing to the school that person may have ALN, or, in the case of a pupil who is a young person, the pupil consenting to the decision being made. The equivalent period in the case of a local authority is 12 weeks (or seven weeks where the local authority is reconsidering a school's decision about whether a child or young person has ALN).

Under the current SEN system, the process of statutory assessment and issuing a statement can take up to 26 weeks. The proposed timescales for IDPs should help ensure that no child or young person with ALN goes for much longer than a whole school term without an IDP being put in place (a school term normally lasting about 13 weeks).

5. What is an IDP and how does it differ to a Statement?

An IDP is a statutory plan maintained by a school, FEI or local authority that sets out a description of a child or young person's ALN, the additional learning provision (ALP) called for by their learning difficulty or disability, and other associated information.

Unlike a statement of SEN, IDPs will be provided to children and young people with ALN irrespective of the severity or complexity of their needs. The statutory status of the IDP will be the same irrespective of the child or young person's needs, with the same rights of appeal to the Education Tribunal for Wales for anyone with an IDP.

The IDP is intended to be a flexible document that will vary in length and complexity depending on the different needs of learners and the way in which an individual learner's needs develop and change over time.

6. How different is this Act to the one in England?

In England, the Children and Families Act 2014 reformed the SEN system and introduced new statutory plans called 'Education Health and Care Plans' (EHCPs) – however, these are only for learners with severe and complex needs (i.e. equivalent to Statements). In Wales, the ALN system will extend rights to statutory plans to all learners with ALN, not limited to only those with the most severe or complex needs.

7. What role do children, their parents, and young people have in the process of identifying and supporting ALN in the new system?

The new system puts the learner at the heart of everything that happens and we expect schools, FEIs and local authorities to take a person-centred approach to planning for and supporting children and young people.

The Act requires that the views, wishes and feelings of children, their parents and young people are considered at all stages of the IDP process. The proposed mandatory IDP template will include a one-page profile to ensure that IDPs reflect the child's or young person's needs and personality, including what is important to and for them.

8. Who is responsible for preparing, maintaining and reviewing IDPs and for identifying ALN?

ALN will be identified, and IDPs will be prepared and maintained, by either a school, FEI or local authority, depending on which educational institution a child or young person attends and the severity or complexity of their needs.

Maintaining an IDP means, securing the additional learning provision included in it, and reviewing the IDP as and when required to ensure the information in it, and the provision it describes, remains appropriate.

In the case of children or young people who are not a pupil at a maintained school or enrolled as a student at an FEI, or where they are a child looked after by a Welsh local authority, it will always be the local authority that maintains the IDP. This includes maintaining IDPs for children under compulsory school age if they are not attending a maintained school setting or young people attending an independent specialist post-16 institution.

9. Will there be a mandatory national IDP template?

The Act requires that the ALN Code includes one or more standard forms of IDP and requires governing bodies and local authorities to use this form or forms.

All IDPs will contain certain key elements and have the same basic structure. This will ensure broad consistency and equality in terms of the way that learners are treated and will underpin the cohesion of the ALN system as a whole and the portability of individual plans.

The draft Code provides two mandatory IDP forms, one for use in the case of children who are not looked after by a local authority, and all young people; and another for use in the case of children who are looked after by a local authority. The headings and order of the mandatory forms reflect the detailed mandatory IDP content set out in Chapter 13 and 14 of the draft ALN Code.

10. What is the difference between a local authority-maintained IDP and a school-maintained IDP?

An IDP maintained by a school and that maintained by a local authority will have exactly the same statutory standing. Whichever body prepares and maintains the IDP must ensure that the IDP describes the child or young person's ALN and the ALP that is called for by their ALN, and must then secure that ALP.

Local authorities rather than schools will maintain IDPs where the child or young person has ALN that calls for ALP it would not be reasonable for the governing body to secure.

Chapter 9 of the draft ALN Code provides clarity on when a school should refer a pupil to a local authority for it to decide whether the pupil has ALN and to decide whether the local authority or the school should have responsibility for maintaining an IDP. It provides guidance to local authorities on how they should determine whether it is reasonable for a school or the local authority to secure the ALP required by a child or young person. It also sets out that the local authority should establish a set of principles they will apply when determining whether it is reasonable for a school to secure the ALP or whether the local authority ought to do so.

Welsh Language

11. How will the Act help to create a bilingual system for supporting children and young people with ALN across Wales?

One of the core aims of the Act is to create a bilingual system of support for ALN. Services will be required to consider whether a child or young person needs ALP in Welsh; this duty will be an ongoing one, rather than a one-off decision. If they do, this must be documented in the IDP and 'all reasonable steps' must be taken to secure the provision in Welsh. A mechanism is included in the Act to remove by regulations the 'all reasonable steps' test, so that the duties to provide ALP through the medium of Welsh become absolute over time.

A series of strategic duties are also aimed at driving progress towards a bilingual ALN system. In particular, when reviewing their arrangements for ALN, and the extent to which those arrangements are sufficient to meet the

needs of children and young people, local authorities will be required to consider the sufficiency of ALP made in Welsh. If a local authority considers that the arrangements are not sufficient, including the availability of ALP in Welsh, it must take all reasonable steps to remedy the matter.

In doing so, local authorities should link their review of ALP with wider strategic duties including those under the School Standards and Organisation (Wales) Act 2013, which requires them to draft, consult on and publish Welsh in Education Strategic Plans (WESPs) demonstrating how they will aim to achieve the outcomes and targets for Welsh-medium provision in their area, including for learners with ALN.

Key roles

12. What is the Additional Learning Needs Co-ordinator (ALNCo) role and how does this differ to existing SENCos?

The ALNCo is a statutory role which will replace the existing non-statutory SENCo role that exists in most maintained schools in Wales and similar non-statutory roles that are undertaken in FEIs in Wales.

Section 60 of the Act requires FEIs and mainstream maintained schools, including maintained nurseries and pupil referral units to have a designated ALNCo. However this excludes maintained special schools where every staff member will have a focus on ALN.

The ALNCo is the individual who at a strategic level within a school or FEI ensures the needs of all learners with ALN within the education setting are met. The role is a strategic one within the education setting and should therefore, either form part of the senior leadership team or have a clear line of communication to the senior leadership team. This will support the setting to plan, manage and deliver its duties and responsibilities in identifying and meeting the needs of children and young people with ALN.

The draft [Additional Learning Needs Co-ordinator \(Wales\) Regulations 2019](#) prescribe the qualifications and experience required to be an ALNCo and the functions placed upon ALNCos.

13. What is the Designated Educational Clinical Lead Officer (DECLO) role?

The ALN Act places a duty on all local health boards to designate an officer to have responsibility for co-ordinating the health board's functions in relation to children and young people with ALN. That person is known as the Designated Education Clinical Lead Officer (DECLO).

The DECLO must either be a registered medical practitioner or a registered nurse or another health professional. The Local Health Board must only designate an officer as a DECLO it considers to be suitably qualified and experienced in the provision of health care for children and young people with ALN.

Chapter 15 of the draft Code sets out the proposed role of the DECLO, including:

- operating strategically to promote awareness of ALN at executive level within the Local Health Board and promote new ways of working;
- sharing best practice with the other DECLOs to help ensure standardised approaches across Wales;
- promoting a consistent strategic approach within the Local Health Board to the identification and assessment of ALN, the preparation and review of IDPs, the planning and delivery of ALP and the monitoring the effect of it on children and young persons;
- managing and monitoring compliance with Local Health Board duties under the Act, and measuring the success of the Local Health Board's interventions.

14. What is the Early Years ALN Lead Officer (ALNLO) role?

The 2018 Act requires each local authority to designate an Early Years ALNLO, who will have responsibility for co-ordinating the local authority's functions under the Act in relation to children under compulsory school age who are not attending maintained schools.

The role of the Early Years ALNLO is intended to be a strategic one. Responsibilities within the role are expected to include establishing effective collaborative working practices and arrangements with others who work with children below compulsory school age; raising awareness of the ALN system and how it applies to children under compulsory school age; promoting early identification and prevention of ALN; and other strategic responsibilities.

Chapter 8 of the draft ALN Code provides further detail on the expectations of the Early Years ALNLO.

Disagreement resolution and appeals

15. What happens if a child, parent or young person disagrees with a decision about ALN by a school, local authority or FEI?

In the first instance, the child, their parent or young person should ask for the matter to be reconsidered by the body that made the decision.

If a school is dealing with the request to reconsider the matter and the child, parent or young person concerned is unhappy with the decision following the reconsideration, they can refer the matter to the local authority.

If the child, parent or young person concerned is unhappy with a local authority's or FEI's decision, they can make an appeal to the Education Tribunal for Wales ('the Tribunal').

The child, their parent or the young person will be able to use the local authority's dispute resolution arrangements. These arrangements will attempt to resolve disagreements outside of Tribunal proceedings. Using these arrangements is not compulsory and does not affect a child's, their parent's or young person's right to take an appeal to the Tribunal. However, the Welsh Government wishes to encourage use of these arrangements, as they will generally reduce the need to take a dispute to the Tribunal and lead to quicker resolution of disagreements, which would minimise disruption to the child's or young person's learning and save significant time and money for the parties involved.

In addition, the 2018 Act places requirements on local authorities to make arrangements for the provision for independent advocacy services for children and young people where they might disagree with a decision.

Chapter 7 of the draft ALN Code sets out guidance and requirements relating to the duties on local authorities to make arrangements for avoiding and resolving disagreements and for the provision of independent advocacy services.

16. What is the remit of the Education Tribunal?

The 2018 Act renames the Special Educational Needs Tribunal for Wales ('SENTW') the Education Tribunal for Wales ('the Tribunal'). The Tribunal will hear and decide appeals and applications in relation to children and young people who have or may have ALN. Specifically, it will hear and decide appeals about the decisions of a governing body of a further education institution ('FEI') or a local authority in Wales. It will also hear disability discrimination claims in relation to schools.

The Tribunal will be able to make decisions about a child's ability to understand matters relating to the ALN system, including what it means to bring an appeal to the Tribunal. Where it declares that a child lacks such capacity to understand, the Tribunal will be able to appoint a case friend for that child.

The Tribunal will be independent of government, local authorities, schools and FEIs; and its decisions are legally binding on local authorities and FEIs.

It will also be able to require an NHS body to provide evidence regarding health related aspects of an appeal and can make recommendations to an NHS body about the exercise of its functions under the Act. If the Tribunal makes a recommendation to an NHS body, that body must report back to the Tribunal stating the action it has taken or proposes to take in response to the Tribunal's recommendation; or why it has not taken and does not propose to take any action in response to the recommendation.

Regulations to be made under the Act will set out the provision of and procedure for appeals and claims to the Tribunal (the [draft Education Tribunal for Wales Regulations](#) are available for consultation until 22 March 2019) and

Chapter 26 of the draft ALN Code provides information about appeals and applications to the Tribunal.

Children and young people in particular circumstances

17. How will the system apply to children who are looked after by a local authority?

Children of compulsory school age or below living in Wales who have ALN and who are looked after by a Welsh local authority, will have an IDP maintained by that authority. The IDP will be incorporated in to the child's personal education plan (PEP). The PEP forms part of the child's care and support plan.

A child with ALN, looked after by a local authority in England but attending a maintained school in Wales, will normally have an IDP maintained for them by the school unless the English authority is maintaining an Education, Health and Care Plan for them.

A child looked after by a Welsh local authority but living in England would come under the English special educational needs and disability system.

The definition of a looked after child for the purposes of the Social Services and Well-being Act 2014 includes young people over compulsory school age and others who would not be treated as looked after children for the purpose of the ALN Act and Code.

18. How does the Act apply to children who are educated otherwise than at school (EOTAS)?

In most cases, EOTAS learners will be the responsibility of the local authority who will be under a duty, where appropriate, to decide if the child or has ALN and if they have, to prepare and maintain an IDP for them.

In the case of pupils at pupil referral units (PRU), the duties in the 2018 Act placed on governing bodies of schools would be for the local authority to discharge. However, the Welsh Ministers are proposing to make regulations requiring a local authority to delegate to the management committee of a PRU it maintains, the functions under the 2018 Act given to governing bodies of schools. These duties would include duties to decide if a registered pupil has ALN and the duties to prepare, maintain, review and cease to maintain plans.

19. How does the Act apply to children and young people at independent schools?

If a local authority places a child or young person with ALN at an independent school for the purposes of receiving specialist ALP the local authority would continue to maintain the IDP. Where it is brought to the attention or otherwise appears to a local authority that a child attending an independent school may have ALN it would be for the local authority to determine whether they have ALN and prepare and maintain an IDP for them if they do. In the case of a

young person in the same circumstances the local authority would need to decide whether or not, in accordance with regulations, it was necessary to maintain an IDP to meet their reasonable needs for education and training.

Post-16 specialist placements

20. How will the new system work with regards to post-16 specialist placements?

Local authorities will be responsible for securing education and training for young people who require specialist provision at independent specialist post-16 institutions (ISPIs). This duty currently rests with Welsh Ministers under the Learning and Skills Act 2000 (“the 2000 Act”) but responsibility will transfer to local authorities upon implementation of the ALNET Act 2018.

Under the current system, Welsh Ministers approve approximately 100 new applications a year for programmes of study offered by independent specialist post-16 establishments. Around 300 specialist placements are funded at any given time.

Under the new system, local authorities will consider the needs of young people with complex needs in accordance with their duties to maintain individual development plans (IDPs) for those for whom it is necessary in accordance with regulations to be made under the Act.

The needs of young people will not be directly affected by the implementation of the Act. Therefore there is no reason for an increase in number of post-16 learners with severe and complex needs requiring access to specialist provision.

Careers Wales will continue to provide independent careers advice to all young people regardless of their needs and this will include advising young people with ALN on potential post-16 options. However, their current role in undertaking assessments of individuals needs (s140 of the 2000 Act) on behalf of Welsh Ministers will no longer be required.

The new system will mean that decisions regarding suitable educational provision for young people with complex needs will be taken locally by people who will usually have been involved in supporting the young person for their entire education. Local authorities will be familiar with the needs of the young people in the system and can plan years in advance for their transition to post-16 education. This will also encourage and enable local authorities and post-16 providers (both mainstream and independent) to work together to plan for and develop the future provision required to meet local needs.

For those young people who have secured a placement at an independent post-16 specialist establishment prior to the responsibility transferring to local authorities, they will remain with their provider for the duration of their existing agreed programme of study.

21. How will the funding for specialist post-16 placements be allocated to local authorities?

In transferring responsibility for securing specialist post-16 placements to local authorities, the Welsh Government will also be transferring funding to support local authorities to deliver this duty.

The Welsh Government is in continued discussions with the Distribution Sub Group on an agreed settlement and allocation of this funding across local authorities. At this time, it is not proposed for funding to be ring fenced. Instead it is likely to form part of the revenue support grant that is allocated to local authorities to provide them the flexibility to discharge a range of duties in accordance with local needs.

As is the case with Welsh Government under the current system, local authorities will wish to consider engagement with other agencies such as social service departments and local health boards on arrangements for securing joint funding of specialist placements in cases where social care provision is identified to support a learner's educational placement.

Implementation

22. When and how will the new ALN system go live?

In December 2018, the draft ALN Code and a number of regulations which support the Act were published for [consultation](#). The Welsh Government intends to lay the Code before the National Assembly for Wales for approval in 2019, with the intention of the Code being issued and published by the end of 2019. It is hoped that all subordinate legislation will also be in place by the end of 2019.

Implementation training will be rolled out early in 2020 and the new system will be expected to go live from September 2020. The implementation period will last three years until summer 2023, during which time all existing Statements of SEN, Individual Education Plans and Learning and Skills Plans will be converted to IDPs. This will be done a mandatory phased approach on the basis of particular aged-based cohorts. During this time, the ALN system will operate in parallel to the SEN system which will gradually be phased out during the implementation period.

For the time being, local authorities and all those who work with children and young people with SEN, must ensure that they continue to comply with the duties placed upon them by the Education Act 1996. They must also continue to have regard to the [SEN Code of Practice for Wales](#) (2004).

An [ALN Implementation Guide](#) has been published that explains the timescales for the roll-out of IDPs to each cohort of learners in the phased approach. It is the first in a series of guides about how the Act is to be implemented, with subsequent guides relating to post-16 learners and those in specific circumstances due to be published in due course.

23. How is the Welsh Government supporting delivery partners to prepare for and manage transition to the new ALN system?

A £20m package of funding is being used to support implementation of the Act and delivery of the wider ALN Transformation Programme.

A large part of this funding will be used to develop the workforce so that all partners understand and are prepared for the changes being introduced. This includes workforce development to help build capacity and ensure practitioners have the skills to effectively operate the new system in order to meet learners' needs.

We are targeting workforce development at three levels; core skills development for all practitioners, advanced skills development through the establishment of the role of Additional Learning Needs Coordinators (ALNCos), which will replace the current SENCo role; and specialist skills development for local authority provided specialist support services available to education settings.

Five ALN transformation leads have been in post since April 2018. Their role is to provide advice, support and challenge to local authorities, schools, early years settings and further education institutions, as they prepare for implementation of the reforms. This includes through readiness self-assessments and the development of local implementation plans. The ALN transformation leads will be responsible for rolling out implementation training on a multi-agency regional basis from 2020.

24. Will the new ALN system cost more to operate than the existing SEN system?

The introduction of the new ALN system will not add to the number of learners who are supported currently. The new system places increased emphasis on working with learners and their families, and all agencies involved will be expected to plan in a person centred way. The schools and authorities that have adopted aspects of the new system have done so within existing budgets and tell us that the changes they have made are enabling them to make better, evidence-based decisions; reducing the potential for conflict; and lead ultimately to improvements in the quality of provision.