

**JOINT EDUCATION, YOUTH & CULTURE AND SOCIAL & HEALTH CARE  
OVERVIEW AND SCRUTINY COMMITTEE**

<b>Date of Meeting</b>	Thursday 17 <sup>th</sup> June 2021
<b>Report Subject</b>	Additional Learning Needs and Education Tribunal (Wales) Act 2018
<b>Cabinet Member</b>	Leader of the Council and Cabinet Member for Education
<b>Report Author</b>	Chief Officer (Education & Youth)
<b>Type of Report</b>	Operational

**EXECUTIVE SUMMARY**

This report updates Councillors about the Additional Learning Needs and Education Tribunal (Wales) Act 2018, which makes provision for a new statutory framework for supporting children and young people with additional learning needs (ALN). This replaces existing legislation surrounding special educational needs (SEN) and the assessment of children and young people with learning difficulties and/or disabilities (LDD) in post-16 education and training. The report references the activity undertaken by the Local Authority and schools in response to the Act to date.

**RECOMMENDATIONS**

1	That Committee receives and considers the report on the Additional Learning Needs and Education Tribunal (Wales) Act 2018.
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## REPORT DETAILS

<b>1.00</b>	<b>EXPLAINING THE ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) ACT 2018</b>
1.01	<p>The Welsh Government (WG) gave a commitment to review the legislation and guidance covering children and young people with special educational needs (SEN) following a period of consultation with all stakeholders in 2007. This was followed by a period of research, targeted trials and pilots and further consultation which fed into a white paper in 2014; this resulted in the publication of the draft Additional Learning Needs and Education Tribunal Bill (2015). Following a pause in process, the Additional Learning Needs and Education Tribunal (Wales) Bill was passed by the National Assembly for Wales on 12 December 2017 and became an Act on 24 January 2018 after receiving Royal Assent.</p> <p>The anticipated implementation date of the reforms as a result of the Act was September 2020, however this has been amended to September 2021. The Covid pandemic has impacted on the implementation plan and alterations have been made to the requirements including a delay in the conversion of Statements of SEN and also the application of the new process to Post 16 learners. There is still a requirement to operate the current system and the new system in parallel for a three-year period.</p>
1.02	<p>The Act extends the legal protection currently offered to pupils with a Statement of SEN to all individuals between the ages of 0 and 25 identified as having additional learning needs (ALN), significantly broadening the statutory responsibilities of the Council. To accompany the Act, WG produced associated Regulations and a draft Code which provided further information and detail regarding the duties to be placed on schools, local authorities and other stakeholders. A period of consultation on the Code was initiated in December 2018, closing on 22 March 2019. WG collated the information received and published a document in response.</p>
1.03	<p>WG indicated in their published document that the responses to the consultation raised a number of issues that required detailed consideration to determine what changes to make to the Code and the associated regulations. The volume and nature of the responses received resulted in the decision to delay the implementation by 12 months to September 2021. The revised operational Code was laid before the Senedd earlier this year and was finally published in April 2021 along with a number of Commencement Orders. The Implementation guidance is due for publication at the end of May. Despite the availability of the operational Code, there remain a number of queries which officers are attempting to resolve with WG.</p>
1.04	<p>Whilst there was a delay in publishing the Code, (the original publication date being by December 2020), WG implemented the regulations regarding the statutory posts that had to be in place by January 2021, namely:</p>

	<ul style="list-style-type: none"> <li>• Additional Learning Coordinator (ALNCo) in all schools</li> <li>• Early Years Additional Learning Needs Lead Officer (ALNLo) for the Council</li> <li>• Designated Clinical Lead Officer (DECLo) within the Health Board</li> </ul> <p>The regulations regarding the role of the ALNCo placed certain requirements on the post holder and expectations in relation to their role. An exemplar ALNCo job description was developed through one of the regional work streams and this was shared with all schools ahead of the January date. All Flintshire schools have an ALNCo in post.</p> <p>An ALNLO has been appointed and the post holder is working across the Council and external agencies to support the development of our new policies and processes in response to ALNET.</p> <p>Betsi Cadwallader University Health Board (BCUHB) has appointed a DECLo and the post holder is actively engaging in meetings at a regional and local level.</p>
1.05	<p>The Flintshire ALN Transformation Plan maps out the activity required to ensure the Council and schools are ready and prepared for implementation; this has been revised to respond to the new implementation date. Flintshire officers are actively engaging in the work taking place across North Wales to support a consistent regional approach to the Act. The completion of the WG Readiness Audit identified the need to recruit additional capacity to enable the Council to respond appropriately to the requirements of the Code. A senior officer was appointed in September 2018 and has been responsible for the development of the local Transformation Plan. Additional ALN officers have also been appointed to support the Council and schools to meet their statutory requirements, with one of these having specific responsibility for implementing the new system for looked after children (LAC).</p>
1.06	<p>Despite the Covid pandemic, preparation work for implementation has continued. Training for schools and officers has been provided on person-centred practice, an integral part of the reforms, and the writing of Individual Development Plans which will replace Statements of SEN. Regular county ALNCo Forums have been held and ALN officers have also joined Cluster ALNCo meetings. Following the recent publication of the Code, the Senior Learning Adviser for ALN has also delivered weekly sessions to help practitioners interpret each chapter and these have been very well received. An Operational Group comprising of relevant service managers has met regularly to discuss and agree the Council's new processes. A Steering Group comprising of multi-agency and school representation has overseen the work undertaken under the Transformation Plan.</p>
1.07	<p>The Council received an ALN Transformation grant of £45k for the last financial year to support development and implementation of ALNET. This</p>

	has been used to buy in additional time from seconded school ALNCOs to facilitate the release of officers to support the preparation and development required ahead of implementation. This has also facilitated some targeted support and coaching for ALNCOs from existing practitioners to develop confidence in the face of reform.
1.08	A new IT system has been purchased to support the new processes. This operates across both schools and the Council, and will provide a portal for parents/carers and other agencies such as Health. The system has been purchased by four of the North Wales authorities and there is a high level of collaboration in place to develop a high quality system. This has been a labour intensive process which has demanded significant officer time to ensure the system meets the requirement of all stakeholders in response to ALNET.
1.09	Regional collaboration in response to ALNET has been very effective across North Wales. There remains a willingness to engage and align systems where possible. A number of regional work streams have also been developed to help share the workload associated with the implementation of the new legislation.

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	Implementation of the new Act comes with a number of resource implications which have been highlighted as part of the Council's Mid-Term Financial Planning (MTFS) process. Additional funding has been allocated to the Inclusion & Progression Service to support an increase in capacity across a number of service areas. Additional funding has also been allocated to address the dispute resolution and Advocacy service requirements, along with the expected increase in legal costs to respond to the anticipated level of legal challenge.

<b>3.00</b>	<b>IMPACT ASSESSMENT &amp; RISK MANAGEMENT</b>
3.01	The risks associated with ALNET are included within the Education & Youth Portfolio Risk Register which are monitored on a regular basis.

<b>4.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
4.01	None undertaken as a result of this report.

<b>5.00</b>	<b>APPENDICES</b>
5.01	None.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	<p><a href="#"><u>ALN Factsheet: how will the Act affect local authorities?</u></a></p> <p><a href="https://gov.wales/sites/default/files/publications/2018-06/aln-factsheet-how-will-the-act-affect-local-authorities.pdf"><u>https://gov.wales/sites/default/files/publications/2018-06/aln-factsheet-how-will-the-act-affect-local-authorities.pdf</u></a></p> <p><a href="#"><u>The Additional Learning Needs Code</u></a></p> <p><a href="https://gov.wales/additional-learning-needs-code"><u>https://gov.wales/additional-learning-needs-code</u></a></p>

<b>7.00</b>	<b>CONTACT OFFICER DETAILS</b>
7.01	<p><b>Contact Officer:</b> Jeanette Rock Senior Manager – Inclusion &amp; Progression  <b>Telephone:</b> 01352 704017  <b>E-mail:</b> <a href="mailto:Jeanette.rock@flintshire.gov.uk"><u>Jeanette.rock@flintshire.gov.uk</u></a></p>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	<p><b>Additional Learning Needs (ALN):</b> The Act replaces the current terms ‘special educational needs’ (SEN) and ‘learning difficulties and/or disabilities’ (LDD) with the one term ALN where ALN is defined as:</p> <p>(1) A person has additional learning needs if he or she has a learning difficulty or disability (whether the learning difficulty or disability arises from a medical condition or otherwise) which calls for additional learning provision.</p> <p>(2) A child of compulsory school age or person over that age has a learning difficulty or disability if he or she:</p> <p>(a) has a significantly greater difficulty in learning than the majority of others of the same age, or</p> <p>(b) has a disability for the purposes of the <a href="#"><u>Equality Act 2010</u></a> 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.</p> <p>(3) A child under compulsory school age has a learning difficulty or disability if he or she is, or would be if no additional learning provision were made, likely to be within subsection (2) when of compulsory school age.</p>

(4) A person does not have a learning difficulty or disability solely because the language (or form of language) in which he or she is or will be taught is different from a language (or form of language) which is or has been used at home.

**Statement of Special Educational Need:** A Statement is a document which sets out a child's SEN and any additional help that the child should receive. The aim of the Statement is to make sure that the child gets the right support to enable them to make progress in school.

**Individual Development Plan:** An Individual Development Plan (IDP) is a plan created and agreed by those people most closely involved with supporting a child or young person with ALN including parents/carers, which outlines the support and provision that should be made for the individual.

**Education Tribunal:** An independent process that deals with appeals against local authority decisions about a child or young person and their education and also discrimination claims of unfair treatment in schools related to a disability.

**Code:** WG guidance outlining the statutory requirements in relation to systems and provision for ALN.

**Commencement Orders:** statutory instruments that brings into force part or all of a piece of legislation at a date later than the date it became law.