

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

Date of Meeting	Thursday 30 th June 2022
Report Subject	Additional Learning Needs and Education Tribunal (Wales) Act 2018
Cabinet Member	Leader of the Council and Cabinet Member for Education, Welsh Language, Culture and Leisure
Report Author	Chief Officer (Education & Youth)
Type of Report	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. |
|----|--|

REPORT DETAILS

1.00	EXPLAINING THE ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) ACT 2018
1.01	<p>Following a commitment from the Welsh Government to review the legislation and guidance covering children and young people with special educational needs (SEN), the Additional Learning Needs and Education Tribunal (Wales) Act received Royal Assent in 2018. The anticipated implementation date of the reforms as a result of the Act known as ALNET, was initially September 2020 but was later amended to September 2021. Further adjustments regarding the full implementation of ALNET were put in place in response to the impact of the Covid-19 pandemic and a phased process of implementation is now in process. To ensure children continue to receive the support they need during the implementation period, the ALN system will operate in parallel to the SEN system which will gradually be phased out. Until a child moves to the ALN system the SEN legislation remains in force, which means schools, pupil referral units and local authorities must continue to deliver the special education provision set out in SEN plans or statements.</p> <p>It is anticipated that local authorities (LAs) will be operating the 2 systems in parallel for a period of 3 years, after which the ALN system will be fully operational and will apply to all children and young people between the ages of 0 and 25.</p>
1.02	<p>From September 2021, the ALN system became live for any children up to and including Year 10 who were thought to have ALN but who had not previously been identified as having SEN. From January 2022, the ALN system commenced for children up to and including Year 10, who were already recognised as having SEN and identified as being either early years action/early years action plus or school action/school action plus. As part of a phased implementation approach, children in the following year groups of Nursery Years 1 or 2 and Years 1, 3, 5, 7 and 10 were referred to as the mandated year groups and identified as the first children to move onto the ALN system. For these individuals, a consideration will be made as to whether or not they have ALN which calls for additional learning provision (ALP) as defined by ALNET and whether an individual Development Plan (IDP) should be issued.</p> <p>For a number of children currently identified as having SEN, the consideration process will determine that the child does not have ALN as their needs can be met within the universal resources of the school, i.e. that they don't require additional learning provision (ALP) which is defined as:</p> <ol style="list-style-type: none">1) "Additional learning provision" for a person aged three or over means educational or training provision that is additional to, or different from, that made generally for others of the same age in -<ol style="list-style-type: none">a) mainstream maintained schools in Wales,

	<p>b) mainstream institutions in the further education sector in Wales, or</p> <p>c) places in Wales at which nursery education is provided.</p> <p>2) “Additional learning provision” for a child aged under three means educational provision of any kind.</p> <p>3) In subsection (1), “nursery education” means education suitable for a child who has attained the age of three but is under compulsory school age.</p> <p>The Additional Learning Needs Code for Wales 2021 which accompanies the Act was published in March 2021 and imposes requirements on the governing bodies of maintained schools in Wales, governing bodies of further education institutions in Wales, local authorities in Wales, Local Health Boards and NHS trusts. It provides an operational guide for the relevant bodies which has been used to identify and define the ALN procedures in Flintshire. A series of panel meetings have been established to ensure that children and young people are discussed in a timely manner to meet the Code’s timescales and that the appropriate agencies are involved in the process, e.g. Education Psychology Service. Significant support has been provided to schools to ensure that they also have a thorough understanding of their roles and responsibilities and a toolkit has been developed which is due for publication in September 2022. School representatives have been an integral part of the authority’s Steering Groups to ensure that the views of schools have been integrated into the processes that have been developed.</p>
	<p>The Early Years Additional Learning Needs Lead Officer (ALNLO) is a statutory role under ALNET and the officer in Flintshire has been in post in a part-time capacity since January 2021, becoming full time in April 2021. Significant work has been undertaken with the Designated Education Clinical Lead Officer (DECLO) within the Betsi Cadwallader University Health Board and other health colleagues to determine appropriate processes across Education and Health to ensure that the local authority is made aware of any pre-school children with ALN. These processes have been reviewed and revised accordingly since their implementation in September 2021 to ensure both agencies are meeting their statutory duties and that the correct children have been identified.</p>
	<p>The Eclipse IT system was purchased and developed to ensure schools and the LA had a robust tool to administer the new ALN system. It is being utilised across four of the North Wales authorities and is a very comprehensive system which supports all users to comply with their statutory duties. The system went live in January 2022 and training and support for users is ongoing.</p>
	<p>The Welsh Government issued further guidance on the 16th June 2022 with regards to the movement of the remaining children with SEN, i.e. those in the non-mandated years and those with Statements of SEN. Officers are currently considering this information along with the implications for both schools and the authority, and an Additional Learning</p>

	Needs Coordinator (ALNCo) forum has been scheduled before the end of term for the implications to be considered.
	In response to the reforms, a review the financial model used to fund primary schools for ALN was undertaken. Following a period of consultation with headteachers, consensus was achieved regarding a funding model and this has been applied for the current financial year and will be kept under review for the remaining years of the implementation process.
	ALNET also identifies revised duties and responsibilities in relation to Post 16 education. Notably, young people have the right to determine whether they wish for the ALN system to be implemented for them (assuming they have the capacity to do so). Careers Wales currently produce a Learning & Skills Plan which outlines an individual's needs and the type of educational provision they require post 16. From September 2022, they will no longer have that remit and LAs will be required to undertake their own assessment of needs and identify suitable provision. For some individuals, this will be available through the local further education institute (FEI) but for others, a more specialist provision will be required. Under the SEN legislation, a Statement of SEN is ceased where a young person attends an FEI. Under ALNET, where an IDP has been issued, this could continue to be required for the duration of the young person's course. FEIs can make requests to the LA where they feel a young person's needs cannot be met through the ALP available and the LA will also become responsible for commissioning and funding more specialist placements for those individuals who require it. Again the Welsh Government guidance with regards to processes for Post 16 learners has only just been published and officers are working to gain a full understanding of the requirements and implications. This information does not include any detail regarding the delegation model by which funding will be allocated to LAs and there is some concern that there will be insufficient funding available on an ongoing basis to support the level of provision required. A task and finish group has been established between Education and Social Services to ensure a collaborative approach to the identification and commissioning of post 16 education for Flintshire young people.

2.00	RESOURCE IMPLICATIONS
2.01	Implementation of the new Act comes with a number of resource implications which have been highlighted and addressed as part of Flintshire's Mid-Term Financial Planning (MTFS) process resulting in the allocation of additional funding to the Inclusion & Progression Service. Welsh Government originally maintained that the reforms were cost neutral and this assertion was challenged repeatedly by many authorities including Flintshire. In response, WG has changed its position and a number of grants have now been allocated to LAs and directly to schools to support

	the implementation, some of which have been confirmed for 3 years (up to 2024-25).
--	--

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None undertaken as a result of this report.

4.00	RISK MANAGEMENT
4.01	The risks associated with ALNET are included within the Education & Youth Portfolio Risk Register which are monitored on a regular basis.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>ALN Factsheet: how will the Act affect local authorities? The Additional Learning Needs Code</p> <p>Contact Officer: Jeanette Rock Senior Manager – Inclusion & Progression Telephone: 01352 704017 E-mail: Jeanette.rock@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>Additional Learning Needs (ALN): 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>

(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.

(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.

(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.