



INFORMATION REPORT FOR EDUCATION SCRUTINY COMMITTEE

SUBJECT: ADDITIONAL LEARNING NEEDS (ALN) ACT AND REFORM

REPORT BY: CORPORATE DIRECTOR, EDUCATION AND CORPORATE SERVICES

1. PURPOSE OF REPORT

- 1.1 To update Members regarding the current status of the Additional Learning Needs (ALN) and Tribunal (Wales) Act (2018) and implications.
- 1.2 To update Members regarding the progress of the Local Authority (LA) in relation to the implementation of the Act.

2. SUMMARY

- 2.1 The Additional Learning Needs and Education Tribunal (Wales) Act (2018) was given Royal assent in January 2018.
- 2.2 The purpose of the Act is to create the legislative framework to improve the planning and delivery of additional learning provision by creating a unified process for children and young people 0-25. This will focus on a person-centred approach to identifying needs early, putting in place effective support and monitoring, and adapting interventions to ensure they deliver desired outcomes. The aim is to ensure improved outcomes through a simpler and less adversarial system.
- 2.3 The Act will be supported by secondary legislation and an Additional Learning Needs Code (statutory guidance and mandatory requirements). The Code has been through a period of consultation and is yet to be finalised.
- 2.4 Preparation for the Act has been supported by the Welsh Government through the appointment of regional transformation leads and funding to support regional planning.
- 2.5 The process of introduction of the Act has also been subject of consultation and the original time line has now been extended to September 2021 for a phased implementation over a three year period.
- 2.6 Local authorities (LAs) have a responsibility to ensure that the Act is implemented and to work effectively with other agencies such as Health and Social Services.
- 2.7 Three new statutory roles will be introduced as a part of the Act in January 2021, Additional Learning Co-ordinators (ALNCos) for every maintained school and PRU; an Early Years Lead Additional Needs Officer (EYALNO) for every local authority and a Designated Education Clinical Lead Officer (DECLO) for every Health Board in Wales.

- 2.8 The Act has made enforced changes to the Social Services and Wellbeing Act (Part 6) in relation to Children who are Looked After (CLA).
- 2.9 In preparation the LAs across the South East Wales consortia region (SEWC) are working together to ensure that there is a coherent and collaborative approach to the implementation of the Act and associated guidance (ALN Code) through the development of a regional implementation plan.
- 2.10 The region and the LA have identified a number of requirements of the Act which may impact upon successful implementation and compliance.

3. RECOMMENDATIONS

- 3.1 It is recommended that the Scrutiny committee note the current situation regarding the ALN Act and associated regulations and guidance. It is further recommended that scrutiny committee note the progress of the LA in implementing the Act and support the actions of the LA in moving forward

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 It is the responsibility of the LA to ensure that the Act is implemented and to ensure effective working relationships with other agencies, supported by the regional ALN transformation lead. The LA must be able to meet the requirements of the Act and associated mandatory ALN Code.

5. REPORT

5.1 Background Information

- 5.2 The vision of the Welsh Government (WG) is to deliver a fully inclusive education system where:
- needs are identified early and all learners supported to reach their potential
 - professionals to be skilled and confident in identifying needs and deploying strategies to help learners overcome their barriers to learning.
- 5.3 LAs will be responsible for learners with additional learning needs (ALN) from 0 to 25, ensuring they can access suitable education and/or training, including compulsory education and specialist post-16 education or training where necessary this includes children who are electively home educated
- 5.4 A regional approach is considered a key guiding principle and therefore WG are supporting key practitioners being freed up to drive change. There is recognition that cluster arrangements will support sustainability and that there is a clear need to ensure join up between the ALN reform and the National Mission so that the enabling objectives can be addressed.
- 5.5 An essential element of the regional approach is the work with key partners (Health, Social Care and Third Sector).
- 5.6 The ALN Code is currently in draft form but it is clear that this will impose requirements on the governing bodies of maintained schools in Wales and FEIs in Wales, and on local authorities in Wales, in respect of decisions about whether a child or young person has ALN, the preparation, content, form, review and revision of individual development plans (IDPs and ceasing to maintain IDP). The Code is intended to describe and explain the duties and processes.
- 5.7 The ALN Act and draft Code make clear that each area of need for a child cannot be seen in

isolation and an holistic approach is advocated where all of a young person's needs are met, accompanied by a single unified plan, the individual development plan (IDP). Therefore planning to meet children's education, health and social care needs have to be considered as a whole with agencies planning together.

- 5.8 The ALN Code will impose mandatory requirements on LAs in respect of:
- information and advice services
 - independent advocacy services
 - the preparation, content, form, review and revision of individual development plans (IDPs)
 - ceasing to maintain IDPs.
- 5.9 IDPs will replace statements of special educational needs (SEN) and individual education plans (IEPs) for learners currently supported through Early Years Action/School Action or Early Years Action Plus/School Action Plus. Where required, the school will decide whether the child or young person has additional learning needs (ALN) and, if so, put an IDP in place. Schools can refer such decisions to the local authority if:
- determining the extent and nature of the young person's ALN, or the additional learning provision (ALP) that they require, is beyond the school's capability
 - it would not be reasonable for the school itself to secure the required provision.
- 5.10 The ALN Code will also impose mandatory requirements on the governing body of a maintained school in Wales in respect of decisions about ALN, the preparation, content, form, review and revision of IDPs, and ceasing to maintain IDPs.
- 5.11 These duties will also apply to further education institutions (FEIs) who can refer a young person's requirement for ALP back to the LA if the provision required is beyond the capability of the institution to provide, or if the provision cannot be secured by the FEI.
- 5.12 Regionally Caerphilly LA are currently leading on the development of a matrix that will ensure clarity and consistency regarding thresholds for the developments of IDPs, and link to provision mapping in schools.
- 5.13 In relation to children looked after (CLA) and working with Social Services, it will be essential that departments work together to plan changes and transitions particularly where children have an ALN and therefore an IDP that would form part of the Personal Education Plan (PEP). Initial indications are the LA will be required to maintain the IDP for CLA who are identified with an ALN.
- 5.14 In relation to children educated outside of a maintained school e.g. EOTAS or EHE initial indications are that where there is an identified ALN the IDP must be maintained by the LA.
- 5.15 Local authorities and further education institutions (FEIs) can request that the health service considers whether there's a relevant treatment or service likely to be of benefit in addressing the learner's ALN. If there is, the health service must secure it.
- 5.16 LAs must provide information for children to ensure they have information about the new system, ensure there is clear information available regarding rights of appeal, and make arrangements for dispute resolution.

5.17 Presently feedback from WG indicates that there are predicted to be savings associated with a more effective system; however, there is likely to be an increased cost over the three year implementation. (2021 – 2024).

5.18 Regional working

5.19 The SEWC region has an implementation plan with four key areas of work (early years, schools, post 16 and collaboration) which includes the links between the ALN Act and Curriculum reform, the revised Excellence in Teaching and Leadership Framework and professional standards. There is therefore an essential link with the consortia (EAS).

5.20 The region is also developing the cluster approach to address one of the key areas linked to supporting schools. A school readiness survey has been developed in order to support planning, delivery and self evaluation, regional and cluster ALNCo's have been appointed to support the completion of the readiness surveys and the development and implementation of a training plan.

5.21 The WG has provided the region with extra resource, to enable current ALNCo's to undertake the accredited National Middle Leadership qualification, in collaboration with the EAS. Key priorities have identified across SEWC schools following completion and evaluation of the readiness survey across schools.

5.22 Each LA has identified a lead for one of the strategic priorities who is responsible for overseeing developments. Information is reviewed against the priorities on a monthly basis and the implementation plan is updated accordingly.

5.23 The current plan shows the following areas of work that are completed or underway:

- A regional training plan (7 modules) has been developed and is being delivered for early years settings
- Additional training has been identified for staff in early years settings
- PCP approaches are being embedded across settings
- Excellent transition practices and planning are being identified
- Responsibilities for the Early Years Additional Learning Needs lead officers (EYALNO) have been identified
- An early year's readiness survey has been developed and is being shared with all settings once they have completed the training modules.
- A multiagency group has been established to support planning across the priorities – lead links for health and social care have been identified
- A Health readiness survey has been devised
- PCP training has been delivered to colleagues from health
- Schools readiness surveys have been completed for 100% schools and areas for development identified in cluster action plans.
- Regional ALNCOs are in place
- Cluster Lead ALNCOs are in place and have undertaken specific professional learning in change management to support their role
- Excellent mainstream practice is being identified and shared
- A professional learning offer has been developed for ALNCOs and aspiring ALNCOs
- PCP practice is being embedded across schools
- PC reviews are taking place in many schools
- Training has been provided to Governors
- A Post 16 multi-agency steering group meets monthly to influence developments in the further education sector.(Coleg Gwent and Coleg Cymoedd)
- An ALN training offer has been developed for post 16 staff including ASD awareness; supporting HI pupils; and effective transition
- An enhanced transition (post 16 and post 19) pilot programme is being trialled with 1 secondary school, a PRU and a resource base
- The Special Schools cluster are identifying possible learner destinations and assisting

- the colleges in developing universal and additional provision.
- Planning for regional implementation of revised documents (IDPs/statements / reports) is underway
- The development of a matrix to identify criteria for school-based and LA-based IDPs is underway
- Parental engagement sessions have been delivered by SNAP this term
- Regional ALNCo forums are in place
- The SEWC ALN web-site is in development and will be ready in mid-December 19. All resources, information, processes etc. will be available on the web-site including good practice films and input from other partners including Health and SNAP

5.24 In relation to the above Caerphilly officers are:

- leading on the early years priority
- leading on the development of new reports and statements which have been shared across the region
- leading on developments within the statutory officers group
- leading on developing a matrix to identify IDP thresholds
- contributing to the educational psychology and partnership groups (Gwent Consortia Meeting (GCM) chaired by the DECLO and the Social Care ALN Leads group)

5.25 Activity and progress across Caerphilly

5.26 The LA has a readiness survey which is used to set targets, evaluate progress and identify next steps. The LA readiness survey is reviewed termly and an action plan is in place to ensure that areas for development are identified with timescales for completion. As an example a steering group has been established to take forward a plan to:

- ensure that there are clear timescales for the change to new documentation
- oversee the development of termly consultation forums with parents and children
- oversee the development of relevant literature for children and parents / carers
- review school readiness surveys
- track progress in relation to specific groups (EHE and CLA)

Officers in Caerphilly also support:

- a local SENCO forum with a focus on ALN
- provide targeted support to schools

5.27 Progress across the regional plan is good with the 5 inclusions leads working collaboratively with the transformation lead to take forward the targeted areas. Locally Caerphilly has adopted a proactive approach and is focusing on developing key processes and procedures to support schools.

5.28 Implications

5.29 The Act creates the legislative framework to improve the planning and delivery of additional learning provision by creating a unified process for children and young people 0-25. This means an extension of the age range for LA education services.

5.30 There are a number of statutory roles indicated by the WG which may have implications for the LA and for schools. There may be a need to redesign existing services and processes in order to ensure compliance with the Act and ALN code and this in turn will have workforce development implications and an associated cost.

5.31 Roles and responsibilities as indicated in the Act and draft Code suggest there are likely to be capacity issues in the education directorate linked to work within early years, statutory responsibilities, demand for educational psychologists, responsibilities linked to CLA, responsibilities linked to EOTAS and elective home education and post 16 provision.

5.32 There is no indication that additional funding will be available from WG to support with the development of statutory roles or the broader workforce development over and above the initial investment linked to the transformation.

5.33 Engagement between schools and LA and with other agencies will be crucial in order to ensure compliance with the Act and to ensure that where there are conflicting priorities, areas of responsibility are clear. This is also crucial in the context of the appeal process.

5.34 Next Steps

5.35 The LA must be prepared to implement new systems and processes in line with the ALN Act and Code, following any implementation guidance. The current timeline for implementation has been changed and is now indicated to begin from September 2021 with new statutory roles in place from January 2021.

5.36 It is our intention that the LA and schools will continue to view September 2020 as a key deadline. That is whilst maintaining compliance with the existing systems (SEN Code of Practice) roles and responsibilities will be developed / aligned with WG expectations, processes and procedures will be aligned with the Act and draft Code, a person centred approach will be embedded across schools and education providers and working arrangements between agencies will be developed in order to align with the Act.

5.37 The SEWC region will continue to follow the priorities as identified through the implementation plan.

5.38 In relation to Caerphilly the focus is on:

- ensuring that the regional priorities are translated into practice locally
- promoting joint working with other agencies
- ensuring there is clear understanding of the implications of the Act across education providers
- ensuring effective working relationships with parents and carers
- developing services flexibly to meet needs
- ensuring processes and procedures are developed in advance of implementation date(s)
- ensuring any other developments within the LA (additional support delegation, funding of SRB's) are in line with the Act.
- joint working with the EAS

6. ASSUMPTIONS

6.1 In considering the recommendations the following assumptions have been made:

- The LA will ensure that the Act is implemented
- The LA will consider how to develop services, systems and processes to comply with its duty to meet the requirements of the Act and associated Code.
- The LA will continue to develop effective working relationships parents, carers, education providers and other agencies ensuring successful implementation of the Act
- The LA will ensure the effective operation of the current SEN statutory system whilst preparing for the new ALN statutory framework.

7. LINKS TO RELEVANT COUNCIL POLICIES

7.1 Corporate Plan 2018-2023.

The report content contributes or impacts the Corporate Well-being Objectives as follows:

Objective 1 - Improve education opportunities for all through offering appropriate provision for the most complex learners

Objective 6 – providing support at an early stage thus reducing the long term need for statutory services. Focusing on person centred approaches and partnership working.

The report also contributes to the Caerphilly Attainment Strategy as linked to Well Being Objective 1.

8. WELL-BEING OF FUTURE GENERATIONS

- 8.1 The ALN Act contributes to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act and more specifically for the principles noted below.

Collaboration – a fundamental principal of the Act focuses on improving collaboration and creating a unified system.

Long term – the Act focuses on meeting the needs of children from 0-25

Prevention – the focus of the Act on identification of need and ensuring appropriate provision to meet needs.

9. EQUALITIES IMPLICATIONS

- 9.1 Council's full Equalities Impact Assessment (EIA) process is adhered to at all times

10. FINANCIAL IMPLICATIONS

- 10.1 Indications from WG are that following the period of transformation there is no additional funding to support the responsibilities of LA's linked to the Act for example workforce development, increased age ranges, provision, placements or any support linked to appeals to The Special Educational Needs Tribunal for Wales (SENTW). Until the ALN Code is finalised and further details are known, costs over the implementation period and how these can be funded, cannot be estimated. Cost pressures are likely to be linked to central teams and schools.

11. PERSONNEL IMPLICATIONS

- 11.1 There are a number of statutory roles indicated by WG as identified in 2.7 above, which have implications for the LA and for schools (5.30 / 5.31 above). The timeline indicates that these roles should be in place from January 2021.
- 11.2 In order to ensure compliance with the Act and ALN Code there will be a need to redesign existing services as there are likely to be capacity issues in the education directorate linked to work within early years, statutory responsibilities, demand for educational psychologists, responsibilities linked to CLA, responsibilities linked to EOTAS and elective home education and post 16 provision. This will have workforce development implications and an associated cost.

- 11.3 There is no indication that additional funding will be available from WG to support with the development of statutory roles or the broader workforce development over and above the initial investment linked to the transformation.

12. CONSULTATIONS

- 12.1 The report reflects the views of the consultees.

13. STATUTORY POWER

Additional Learning Needs and Tribunal Act (Wales) 2018

Well-being of Future Generations (Wales) Act 2015

Education Act 1996

Equality Act 2010

United Nations Convention on the Rights of the Child

Author: Sarah Ellis (Lead for Inclusion and ALN)

Consultees: Christina Harrhy, Interim Chief Executive
Richard Edmunds, Corporate Director of Education and Corporate Services
Dave Street, Corporate Director Social Services & Housing
Cllr Philippa Marsden Leader
Councillor Teresa Parry Chair of Education for Life Scrutiny Committee
Cllr Carol Andrews, Vice Chair Education for Life Scrutiny Committee
Keri Cole, Chief Education Officer
Jane Southcombe, Finance Manager -Education, Lifelong Learning & Schools
Sue Richards, Head of Education Planning and Strategy
Paul Warren, Strategic Lead for School Improvement
Sarah Mutch, Early Years Manager
Lisa Downey, Personnel Manager
Lynne Donovan, Head of People Services
Steve Harris, Interim Head of Business Improvement and Acting Section 151 Officer
Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)
Rob Tranter, Head of Legal Service and Monitoring Officer
Ros Roberts, Business Improvement Manager
Tracey Pead, ALN Transformation Lead (TCBC)
Debbie Harteveld, Managing Director EAS
Kath Bevan, Equity and Wellbeing Lead EAS
Statutory Officers
Principal Educational Psychologist(s)