



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

26TH SEPTEMBER 2022

UPDATE ON THE IMPLEMENTATION OF THE ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL ACT 2018 IN RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

REPORT OF THE DIRECTOR OF EDUCATION AND INCLUSION SERVICES IN DISCUSSION WITH THE CABINET MEMBER FOR EDUCATION, YOUTH PARTICIPATION AND WELSH LANGUAGE (COUNCILLOR R LEWIS)

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1. PURPOSE OF THE REPORT

1.1 The purpose of the report is to:

- Provide an update to Cabinet on the implementation of the ALNET (Additional Learning Needs and Education Tribunal) Wales Act (2018) in Rhondda Cynon Taf, including the use of additional resources approved by the Council to enable the Access and Inclusion Service to fulfil its increased statutory duties in line with the requirements of the new ALNET (Wales) Act (2018) and ALN Code for Wales (2021) during Years 1 and 2 of the 3-year national ALN Implementation timetable.
- Identify potential risks and the further possible additional resources needed to ensure that the Council is able to fulfil its statutory ALN duties at the end of the 3-year transitional period when the new ALN system will be fully implemented, having replaced the outgoing Special Educational Needs (SEN) system.

2. RECOMMENDATIONS

2.1 It is recommended that Cabinet:

- I. Note the content of this report.
- II. Note the actions undertaken to date by the Access & Inclusion Service to implement the ALN reforms.
- III. Note risks to the Council that are highlighted in the report and approve any actions recommended in section 8 to address these risks during Phase Two and Three of the national ALN Implementation timetable from 2022 to 2024.
- IV. Note that funding for the financial implications as outlined in Section 11 continues to be transitioned into the Council's Medium Term Financial Plan

alongside the use of one-off resources and maximising grant funding opportunities wherever possible.

V. Agree to receive a further report on ALNET (Wales) Act implementation at a later date if necessary.

3. REASONS FOR RECOMMENDATIONS

3.1 To ensure that Rhondda Cynon Taf County Borough Council (RCTCBC) has sufficient resources and expertise to continue to meet its **new** statutory responsibilities for learners with ALN throughout the national Welsh Government 3-year ALN Implementation period and beyond, thus ensuring that all children and young people aged 0-25 with ALN in the county borough receive high quality additional learning provision (ALP).

4. BACKGROUND/WIDER CONTEXT

4.1 The Additional Learning Needs and Education Tribunal (ALNET) Wales Act (2018) came into force in September 2021 in year one of a three-year phased implementation plan that extends from September 2021 to August 2024 by which time the ALNET Act will be fully enacted having replaced the current outgoing Special Educational Needs (SEN) system. The Act is supported by the implementation of a new statutory ALN Code.

4.2 Under the new legislation 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.

4.3 The transformed system is intended to:

- ensure that all learners with ALN are supported to overcome barriers to learning and achieve their full potential;
- improve the planning and delivery of support for learners from 0 to 25 with ALN, placing learners' needs, views, wishes and feelings at the heart of the process; and
- focus on the importance of identifying needs early and putting in place timely and effective interventions which are monitored and adapted to ensure they deliver the desired outcomes.

4.4 The new Act is underpinned by 3 overarching objectives and 11 core aims. Reference will be made to the above throughout the body of the report.

4.5 Since 2018 the Welsh Government funded an ALN Transformation Lead for each consortium to support local authorities on a regional basis to prepare and implement the new ALN system. The ALN Transformation Lead had responsibility for the delivery of a strategic regional ALN Implementation plan that was supported by local ALN Implementation Plan that reflected the immediate strategic and operational priorities of the local authority to ensure compliance with the new legislation. The action plans were funded by Welsh

Government via the ALN Transformation Grant, part of the overall transitional financial support for local authorities to implement the reforms.

4.6 For financial year 2022/23 RCT has received ALN transformation grant funding of £102.5k to fund an Interim ALN National Implementation lead until September 2022 (RCT CBC is the host for employing the Lead Officer) to support the implementation timetable and moving forward there is an expectation that local authorities will take ownership for implementing the new ALN system through their own individual and regional arrangements. Welsh Government will be introducing 2 new posts to support the ALN implementation timetable and provide a high-level steer to local authorities on a national basis.

4.7 Welsh Government has continued to provide grant funding to local authorities to support the initial implementation of the new ALN system. Allocations to Rhondda Cynon Taf CBC since 2020/21 are detailed below:

	2020/21	2021/22	2022/23
ALN	593,285	591,495	
ALN COVID (Learner Provision in 22/23)	727,495	744,029	755,355
New System funding		597,380	456,648
ALN special schools & units		356,654	
	1,320,780	2,289,558	1,212,003

4.8 The various grants above have been issued by Welsh Government to assist continuation of high-quality support to learners whilst preparing for the new ALN system, addressing pressures arising from the Covid pandemic and for the preparation of the new system. Please note that the above table does not include ALN Transformation Grant which was allocated in line with the regional education consortia footprint.

4.9 In its 2022/23 settlement released 1st March 2022, Welsh Government published indicative grant values up until 2024/25 financial year. The indication suggests that ALN funding will continue at 2022/23 levels until 2024/25. Grant funding is currently being used for a range of activities, including additional training and resources for schools in relation to supporting learners with social, emotional and behavioural needs, person centred approaches, and to fund additional temporary posts that are key to providing additional capacity to Access and Inclusion Services in implementing the 3-year implementation plan. This has included the appointment of temporary ALP Co-ordinator to support the transfer of statements of SEN to IDPs, a part-time project manager to support the introduction of a quality assurance process for IDPs and a part-time Further Education (FE) project manager to support the LA to work collaboratively with the FE Transformation lead and local and regional FE colleges to develop agreed practices and protocols in readiness for the new statutory 19-25 ALN duties.

4.10 Since the outset, the steadfast view of the Welsh Government has been that the implementation of the new ALN transformation agenda would be cost neutral. This is not a view that is shared by local authorities. To this end, a report

was presented to Cabinet in [February 2021](#) that highlighted the additional statutory duties that would be placed upon local authorities by the new legislation. The report also provided an overview of the significant financial and resource implications incurred by local authorities in England due to the implementation of the Special Educational Needs and Disability (SEND) reforms since 2014.

4.11 Following approval from Cabinet a scoping exercise was undertaken to identify the additional resources required by the Access and Inclusion Service to enable Rhondda Cynon Taf to comply with its enhanced statutory duties as set out in the ALNET (Wales) Act 2018 and in line with the requirements of year 1 of the 3-year Welsh Government ALN implementation timetable to move from the outgoing SEN system to the new ALN system.

4.12 As a result of the scoping exercise a delegated operational decision was made by the Director of Education and Inclusion Services in discussion with the Cabinet Member for Education and Inclusion Services in December 2021 to approve the deployment of additional funding of £500,000 to the Access and Inclusion Service from existing financial resources that the Council had set aside in anticipation of the need for enhanced resources.

4.13 The implementation phases are summarised below in Table 1:

Table 1: Implementation Phases of the ALNET Transformation Programme

Implementation Phases	Transfer to ALN System for learners currently at School Action/School Action Plus (mandated year groups)	Transfer to ALN system for learners with statements of SEN (mandated year groups)
Year 1 2021/2022	Nursery, Y1, Y3, Y5, Y7, Y10	N/A
Year 2 2022/2023	Nursery, Y2, Y4, Y6, Y8, Y10, Y11	Nursery, Reception, Y6, Y10, Y11
Year 3 2023/2024	Nursery, Y2, Y4, Y6, Y8, Y10	Y2, Y3, Y4, Y5, Y6, Y8, Y9, Y10

4.14 Due to the new ALN system currently being implemented, it is acknowledged that there is significant uncertainty regarding the long-term impact and implications of the reforms. However, this report will attempt to summarise potential pressures that are likely to emerge over the next two years of the ALNET Transformation Programme.

5. UPDATE ON IMPLEMENTATION – YEAR 1, 2021-2022

5.1 In line with the delegated decision (paragraph 4.12) to create additional capacity for the Access and Inclusion Service the following posts were created:

- 3 x Additional Learning Provision (ALP) Co-ordinators
- 1 x Early Years ALN Specialist Teacher

- 1 x Educational Psychologist (EP)
- 1 x Complex Case Manager
- 1 x Family Liaison Officer (FLO).

The Service has been successful in recruiting to all of the above posts and all posts, apart from the 3 ALP Co-ordinator roles, become operational at the beginning of the Autumn Term 2022, and therefore it is not yet possible to comment on the impact of these new roles. The new posts have been established to create enhanced capacity and resources for areas of high risk that identified in the previous Cabinet report for Phase One of ALN implementation, primarily supporting those core aims in the Act that relate to:

- new statutory ALP for children aged 0-3
- the introduction of a unified statutory plan
- increased participation of children and young people
- increased collaboration
- avoiding disagreements and earlier disagreement resolution.

5.2. **Impact of the ALP Co-ordinator posts**

Due to the availability of the Welsh Government ALN Grant over the last two financial years the Access and Inclusion Service was able to introduce three additional temporary ALP Co-ordinator posts to its structure to support immediate service capacity priorities during the initial transitional period. Following approval to make the posts permanent, a successful recruitment process enabled the post holders to continue seamlessly in their posts. A key element of the ALP Co-ordinator role is to support schools and the local authority meet their statutory requirements in relation to the IDP process and to build the capacity of schools to deliver high quality universal and additional learning provision (ALP). Key activities undertaken by the ALP Coordinators include:

- IDP training for all ALNCoS, Learning Support Class teachers and central staff
- Weekly IDP cluster Quality Assurance and Support sessions
- Drop-in Light Bite Training sessions on a range of person-centred approaches
- Twice-termly ALNCo forums
- Four times weekly support sessions for schools, parents, professionals on ALN systems, Universal and Additional Learning Provision, provision mapping, IDPs etc
- Attendance at 41 school based Person-Centred IDP meetings as supportive mechanism
- Bespoke face-to-face school support on identified areas for development
- Development of agreed universal and additional learning provision for learners accessing EOTAS
- Development of RCT IDP processes for CLA and Youth Offending Service
- Drafting of all LA maintained IDPs.

- 5.3 A recent ALN Readiness Survey was completed by schools at the request of the regional ALN Transformation Lead whereby schools were required to RAG rate a series of questions relating to their readiness to implement the new ALN system. It was encouraging to note that green and yellow ratings combined recorded a response between 94.6 and 100%. When comparing responses on a regional basis, RCT ranked 1st for the majority of questions within the combined green and yellow categories.
- 5.4 Due to the enhanced statutory duties imposed by the new ALN legislation whereby all ALP made by mainstream schools is now statutory and subject to legal challenge by parents/carers, the ALP Coordinators also play a crucial role in mitigating the risk to the local authority of increased ALN tribunal appeals and disability discrimination claims. This work will be further enhanced by the new Complex Case Manager and Family Liaison Officer (FLO) roles when they take up post from September 2022.
- 5.5 During Year 1 of ALN Transition, Access and Inclusion has issued 118 LA maintained IDPs in line with the new shorter statutory timescales of 7 and 12 weeks. Robust quality assurance processes have been put in place to mitigate against the risk of an increase in costly tribunal appeals against the local authority.

6. **UPDATE ON IMPLEMENTATION – YEAR 2, 2022-2023**

- 6.1 A range of key priorities and actions have been identified in order to implement year 2 and to ensure appropriate forward planning for year 3 of the 3-year national implementation timetable. Key actions include:

6.2 **Transfer to the new ALN System:**

- ***Transfer from statements of SEN to IDPs for pupils in the mandated years for 2022/23:*** a clear protocol has been put in place to ensure that schools understand the respective responsibilities of schools and Access and Inclusion Services in relation to transferring pupils from statements to IDPs. Schools will be supported by the ALP Co-ordinators through a range of support mechanisms, including ALNCo forums, weekly drop-in sessions, training/workshop activities and direct consultation and attendance at multi-agency IDP meetings where necessary.
- ***Transfer from School Action/School Action Plus for pupils in the mandated years for 2022/23:*** Schools will continue to be supported to transfer pupils at school action/plus to the new ALN system in line with the protocols and the support mechanisms that have been in place since September 2021.

- 6.3 **Provision Mapping universal learning provision (ULP) and additional learning provision (ALP):** a range of structured activities have been put in place to ensure that we develop a shared understanding within our schools of the local authority's expectations in relation to high quality differentiated teaching for all pupils before considering whether a learner needs additional

learning provision (ALP). These include training on provision mapping for schools, cluster sessions for ULP/ALP support and moderation, collaboration with school improvement partners regarding support for schools regarding high quality universal teaching and learning.

6.4 **Quality Assurance (QA) processes:** the introduction of QA processes in relation to person-centred practices, drafting IDPs, provision mapping and the effective implementation of evidence based ALN interventions in schools.

6.5 **19-25 age range:** Workstreams identified to prepare for the introduction of the LA's new duties in relation to post-compulsory school-aged learners with ALN at FE colleges include:

- Scoping of numbers of learners who express a clear preference to progress to FE during academic year 2023/24
- Establishment of a multi-agency post16/19 ALN steering group with representation from LA services, Health and FE colleges.
- Undertaking a post-16 enhanced transition pilot for learners with ALN in mainstream and specialist settings
- Working group to develop a collaborative graduated response for supporting FE learners in terms of universal and additional learning provision and thresholds for implementing college based and LA funded IDPs.

6.6 **Review of Learning Support Class Provision:** Due to the increase in the number of pupils being issued statutory plans (statements and IDPs) and the increase in the number of pupils accessing specialist provision over the past 5 years, a full review will be undertaken of the capacity of our learning support class provision with a view to making recommendations for changes/enhancement to the provision as necessary in order to meet the growing complexity of need within the county borough.

6.7 **Implementation of new posts within Access and Inclusion:** following agreement by Cabinet to introduce new posts to the structure of Access and Inclusion, the following posts will become operational in Autumn Term 2022:

- **0-3 age range (Early Years):** Early Years Advisory Teacher and full time equivalent Educational Psychologist. The posts will bring additional capacity to support early years settings to make effective provision for children with emerging needs and ALN and to assist in the early identification of needs of individual learners.
- **Avoiding disagreements and earlier disagreement resolution:** Complex Case Manager and Family Liaison Officer. The two posts will be key to ensuring more effective liaison and collaboration with families, parents/carers. This work will be undertaken both systemically, via a Family Engagement Plan, to engage parents/carers and families through a range of planned activities and also, on an individual case management basis in response to disagreements that arise via panel processes regarding the IDP process. This will be key mitigating the anticipated increase in the number of tribunal appeals and claims

brought against the LA under the new ALN system as indicated in paragraph 5.4.

7. LOCAL CONTEXT AND IDENTIFIED PRIORITIES

- 7.1 Following the initial scoping exercise undertaken in December 2021 that identified Phase One risks and priorities, a further scoping exercise has been undertaken to identify risks for the Council during Phases Two and Three (i.e., years 2 and 3) of the ALN implementation plan.
- 7.2 This section raises awareness for Cabinet Members of main risks and significant challenges identified and, where appropriate, proposed actions to mitigate these risks and to address the identified priorities. It also makes reference to a recent review of the impact and implications of the Special Educational Needs and Disability (SEND) reforms in England since its implementation in 2014 which has many similarities with the ALN reforms in Wales.
- 7.3 It is important to stress that the highlighted risks relate to the new statutory duties placed upon the Council by the new ALN legislation and, as such, are non-negotiable in terms of ensuring compliance.
- 7.4 **Increased statutory duties across an enhanced age range 0-25 years:** Historically, under the outgoing SEN system, Access and Inclusion services have worked predominantly with learners of statutory school age. The new Act imposes new duties upon local authorities at both ends of the new statutory age range.
- 7.5 Over the past 3 years there has been an increase in the number of referrals made by schools to the Access and Inclusion Service as illustrated in the table below:

Table 1: Number of referrals to Access and Inclusion Services

Academic Year	2019/2020	2020/2021	2021/2022
Number of referrals	879	1465	1659

This trend is likely to increase during the next two years of the implementation timetable.

7.6 PRIORITY 1: Meeting enhanced responsibilities and potential costs in the early years

0–3 age range: In line with the national 3-year implementation plan whereby the new legislation was enacted for children aged 0-3 in September 2021, immediate capacity concerns highlighted in the Phase One review have been addressed through the establishment of additional posts within the Access and Inclusion structure as referenced in Section 5 and through the introduction of

the statutory Early Years ALN Lead Officer (EYALNLO) role. However, following Year 1 implementation,

- **Growth in Early Years Forum referrals:** during the first year of implementation, the Early Years Forum has received 179 referrals of which 38 referrals have resulted in the completion of local authority maintained IDPs. In addition, a further high number of the children referred to the Forum who did not receive an IDP during academic year 2021/22 (approximately 60 children) have been identified as having emerging needs that will likely meet the criteria for an IDP to be put in place whilst they are still within the pre-school 0 - 3 age range. This is in contrast to the previous 3-year data which shows that during academic years 2018/19 to 2020/21 only 46, 32 and 36 children respectively received statutory SEN provision funded by the local authority via a Statement of SEN. IDPs for children aged 0-3 must be maintained by the local authority and a significant increase in the number of early years IDPs will have a clear impact upon the workload and capacity of the current ALP Team and ALP Co-ordinators. There is evidence of children with increasingly complex needs being considered in panel, many of whom attend non-maintained settings, including childcare and registered educational providers. There is a need to ensure that we have sufficient specialist staff to support non-maintained settings to meet need. We have approximately 200 childcare settings in RCT which includes 33 registered educational providers and 45 commissioned flying start settings. **This is a significant pressure point that requires close monitoring.**
- **Enhanced Capacity Funding (ECF):** Additional learning provision (ALP) identified in IDPs for children 0-3 must be funded by the local authority. At the end of Year 1 of ALN implementation (2021/22 academic year), the local authority has funded ALP for 16 learners at a cost of £25k. The anticipated increase in the number of children aged 0-3 having IDPs over the next two years of ALN implementation will in turn result in an increased demand to provide ECF to support identified ALP. **Provision will have to be made for a potential growth in ECF for 0–3-year-olds on a year-by-year basis.**
- **Early Years specialist provision:** due to an increased number of children aged 0-3 being identified as having ALN it is a reasonable assumption that there will be an increase in the number of requests for specialist placements for this age cohort. As at the time of writing (August 2022) data indicates that there has been a 133.3% increase in the number of pre-school children placed in special schools over the past two academic years and the equivalent number of pupils have been placed in Early Years Learning Support Classes at the beginning of academic year 2022/23 as were placed throughout the whole academic year 2021/22. The proposal to increase special school provision in RCT is being considered under another Cabinet report, but consideration will also need to be given to enhancing Early Years Learning Support Classes in RCT. At present we have 3 Early Years provisions. It is proposed that consideration is given to consulting over the opening of an

additional Early Years Learning Support Class in 2023-2024 (year 3 of the implementation plan).

7.7 **PRIORITY 2: Meeting enhanced responsibilities and potential costs in the 19-25 age range**

19-25 age range: Under the revised national ALN implementation plan, the new statutory duties relating to ALN learners aged 19-25 begin to be enacted in September 2022 for a small cohort of learners (those dually registered). From this point in time, local authorities will have a legal responsibility to ensure that young people aged 19-25 who have a determined 'reasonable need' for education have the right to access further education (FE) at a FE college setting. Additionally, it is anticipated that from September 2024 (year 4), Welsh Government will transfer the responsibility for funding post-16 specialist placements for young people at ISPIs (Independent Specialist Post-16 Institutions). Although it is not yet possible to gain a full and accurate picture of the implications of the new statutory duties placed upon the local authority until the legislation comes into force for this new age range, initial scoping has taken place that has identified clear challenges and risks. To address these new duties, it is proposed that a **new post-16 ALP Co-ordinator post is created in year 3 (2023-24)**. This post will be important in ensuring that a proactive approach is adopted to meeting the needs of learners in county where at all possible, and not in an Independent Specialist Post-16 Institution.

- **Statutory IDPs for 19-25:** from academic year 2022/23 young people with ALN will fall within the remit of the new legislation in relation to accessing further education. Under the Act, young people with less complex ALN will be supported by the FE college via a college based IDP where the cost and provision of the majority of ALP would be implemented from college resources. Those young people with more significant and complex needs, however, will require a LA maintained IDP. This will need to be coordinated and funded by the LA. It is impossible at this point in time to have definitive numbers of pupils who will want to exercise their right to access FE. However, currently in RCT there are 170 pupils attending specialist provisions in Years 10 & 11, the first full academic year cohorts to access FE under the ALN system in 2023/24 and 2024/25 respectively, who would require LA maintained IDPs to access FE opportunities. Due to the high-level status and the significant awareness raising given to the ALN reforms by Welsh Government and the requirement to promote understanding of the new legislation on a local basis, it is reasonable to anticipate that many young people with ALN and their parents/carers will opt to access FE. This will have a significant impact upon the LA's capacity to meet its new statutory duties for FE, particularly as there has been no previous requirement to undertake this work.
- **Enhanced Capacity Funding (ECF):** All ALP identified for young people aged 19-25 who will have a local authority maintained IDP will need to be funded by the local authority from 2022/23 and not by the FE college. It is not possible to estimate the additional cost to the Council until we have clearer indicative figures of learners with significant and complex

needs who express a clear desire to access FE during the next two academic years. A scoping exercise will be undertaken in **2022/23 as part of multi-agency enhanced transition processes and a budget to support ALP for learners in FE settings will be necessary from 2023/24.**

- **Post-16 Independent Specialist Placement Institutions (ISPIs):** Historically, there has been a low number of young people with significant and complex ALN from RCT accessing these highly specialist provisions, although these numbers have doubled from 7 young people in 2019/20 to 14 and 13 respectively in 2020/21 and 2021/22. Current total costs equate to £1.252M per annum. Of the £1.252M, Community Services currently contributes £399k but the responsibility for meeting the costs currently funded by Health Boards and Welsh Government will also transfer to the Council. Despite the numbers appearing low, it is important to recognise that the costs associated with accessing placements at ISPIs are significant. Information provided by the Welsh Government FE ALN Implementation Lead suggests that the average cost of a placement at an ISPI over the past 4 years has been £83,849 for all costs and £52,217 per annum for the educational element. Welsh Government will transfer responsibility and funding for ISPI placements to local authorities. This will have implications for the capacity of Access and Inclusion Services in assessing and reviewing applications for ISPI placements, in terms of additional quality assurance processes. It is concerning that local authorities have not yet been informed how the Welsh Government will determine the level of funding delegated to individual local authorities. With the increased awareness of the new statutory 19-25 age range within the Act, it is possible that there will be an increase in the number of young people and their families expressing a preference to attend an ISPI, particularly in incidences where the FE colleges are of the view that they cannot meet the complex needs of some young people. **Whilst funding will transfer from Welsh Government, this is a potential financial risk for the Council, particularly if there is growth in demand and funding models are based on historical trend data.**
- **Impact upon Access and Inclusion Services:** Currently Access and Inclusion Services do not have any involvement in supporting FE colleges to make provision for students with ALN. It is anticipated that the introduction of the new statutory 19-25 duties will have an impact upon the capacity of all service areas:
 - ALP Team – coordination of the IDP process for students who require local authority maintained IDPs, attendance at Person Centred Meetings and IDP reviews and quality assurance of additional learning provision.
 - Educational Psychology – a statutory requirement to ensure that the ALN of students are understood through a range of activities, including consultation and assessment and systemic work.

- Learner Support Service – direct and indirect support for individual students in line with identified ALP, systemic advice on providing high quality ALP.

The effective engagement of Access and Inclusion Services with FE colleges will be essential to ensure that the local authority meets its new 19-25 statutory duties and to ensure that the college is able to provide high quality ALP for an increasingly complex clientele so that they can have their needs met within their community without the need to access significantly more costly independent specialist post-16/19 institutions. However, due to the current demands upon the capacity of the Access and Inclusion services there will be insufficient capacity to undertake the above additional statutory duties. **It is likely that there will be a need to appoint to an ALP Co-ordinator for Post-16 Education and a Specialist Post-16 Educational Psychology post as a minimum once legislation becomes enacted in 2023/24.**

Currently Access and Inclusion has used grant funding to employ a part-time temporary FE ALN Project Lead to work collaboratively with local FE colleges and on a regional and national basis with the Welsh Government FE ALN Transformation Lead to set up new processes and protocols to ensure that the LA is well placed to implement its new statutory 19-25 ALN duties in line with the national implementation timetable.

7.8 **PRIORITY 3: Replacement of the statutory assessment process with a single statutory plan**

All pupils with an ALN will now have a statutory IDP unlike the outgoing SEN system whereby only a minority with the most significant SEN have a statutory Statement of SEN. The majority of IDPs will be school based, where schools provide the ALP identified in their pupils' IDPs themselves through a combination of their overall school budget and their ECF allocation. However, over the past 5 years, there has been an overall 32.68% increase in the number of statements/IDPs (i.e., statutory plans) maintained for pupils in RCT.

Table 2: Number of Statements/IDPs maintained over 5 years

	2017/18	2018/19	2019/20	2020/21	2021/22
Number of statements /IDPs maintained	1074	1165	1220	1306	1425

If the number of pupils identified as having an ALN continue to increase in RCT, there will be clear implications in relation the demand upon central Access and Inclusion services, in relation to the funding required by schools to meet the ALN of an increasing number of pupils who have an entitlement to statutory ALP, and in respect of the demand for placement in specialist placements.

In September 2019, the Secretary of State for Education and the Secretary of State for Health and Social Care commissioned a **SEND review: Right Support, Right Place, Right Time** as a response to widespread criticism that

the new SEN system was failing to meet the needs of its learners with SEN in England. The review identified that there had been an overall increase of 1.6 % in the numbers of learners identified as having SEN since 2016 (2 years after the implementation of the reforms).

Due to the high number of statements that will need to be transferred to IDPs during years 2 and 3 of the implementation timetable, the number of pupils at school action and school action plus who will need to be transferred to the new ALN system, together with the anticipated overall continuous increase in the number of pupils identified as having an ALN, Access and Inclusion has appointed an additional temporary ALP Coordinator to ensure that schools and the LA can meet their statutory ALN duties during the 3 year transition. **However, due to the enhanced aged range of 0-25 and the anticipated increase in the number of IDPs compared to the current number of statements, it is proposed that the additional ALP Coordinator post is made permanent.**

7.9 **PRIORITY 4: Ensuring Sufficient Enhanced Capacity Funding to Meet Need**

Enhanced Capacity Funding: There has been a 13% average per annum increase in ECF funding in Individual School Budgets since 2018/19. This is likely to be an increased budget pressure moving forward in light of the enhanced statutory duties.

In support of the transition from statutory statements to IDPs, school funding changed from Additional Needs Funding (ANF) whereby funding was based upon recommended support (GR3 hours) defined in the statutory statement to an alternative method badged as Enhanced Capacity Funding (ECF).

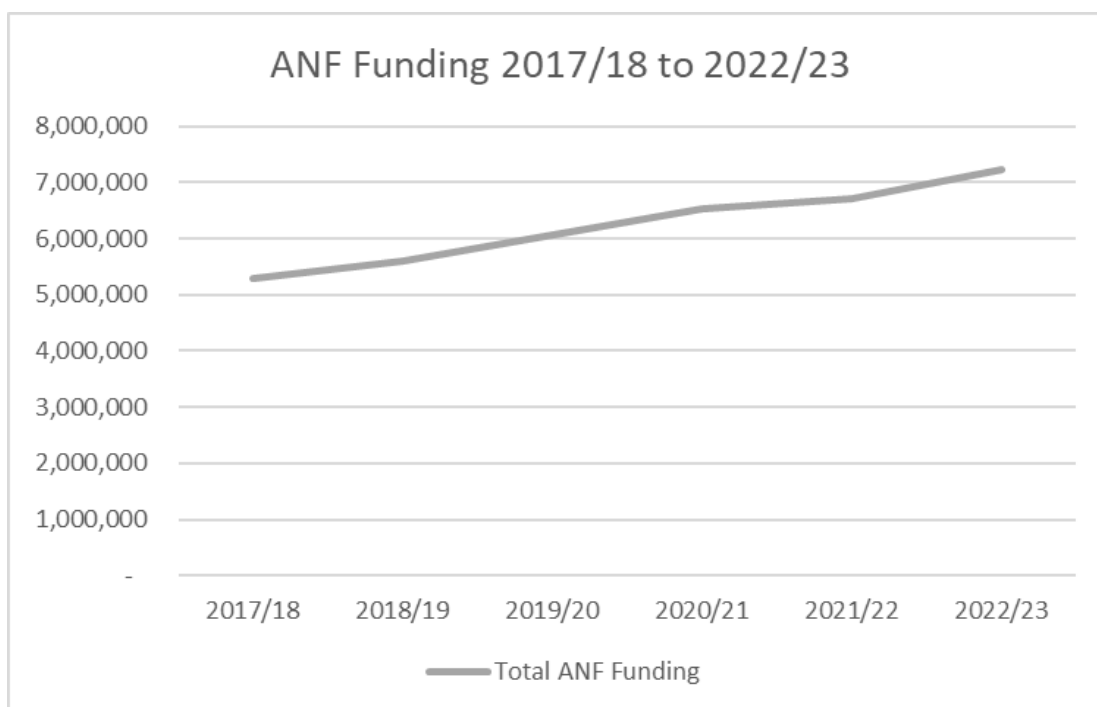
As hours of support are not defined in IDPs, an alternative method of funding schools was discussed with headteachers and at School Budget Forum and a consultation put forward.

The consultation resulted in the following:

- **Primary sector:** *Funding is top sliced to allow the LA to maintain a contingency fund for medical/physical needs prior to delegation. Remaining funding is allocated using pupil numbers double weighted towards early years pupils (nursery – reception FTE pupils) (50% weighted) and WIMD (50%) and includes floor funding of values equivalent of a 0.5 LSA.*
- **Secondary/All through sectors:** *No top slice – all funding is delegated to schools. Funding is allocated using pupil numbers (50% weighted) and WIMD (50%) and includes a floor funding of values equivalent of a 0.5 LSA.*

As seen in Graph 1, ECF was increased in 22/23 school budgets to reflect the growing trend of demand.

Graph 1: Delegated additional needs funding for schools (ANF/ECF)



However, there are concerns that the delegated funding is not sufficient to meet the increasingly complex needs of learners in mainstream settings. It is helpful to consider the impact of SEND reforms in England, where it has been noted that the national high needs budget in England has risen by more than 40% over three years with forecasts showing that total high needs spending will continue to increase year on year and recognising that *'local government spending is outstripping funding and the system is financially unsustainable'*.

If parallels are to be drawn between the SEND reforms in England and the ALN reform in Wales, and in light of the consistent declarations by Welsh Government that the ALN reforms will be cost-neutral, it is reasonable to assume that there will be increased financial pressure upon schools and, subsequently, the Council to meet the needs of its learners with ALN.

This, in addition to the enhanced age range to include children from birth to aged 25 will increase the local authority's statutory duties to provide statutory ALP and will enable all children/young people and their parents who have an ALN with the right to challenge their statutory entitlement via Education Tribunal Wales. **It is proposed that a growth in ECF budget is made available to reflect the complexity of need in mainstream education and to reduce the pressure on specialist placements.**

7.10 PRIORITY 5: Ensuring that we have sufficient specialist provision to meet need, including Welsh medium provision

RCT spends in the region of £4.7M annually on the provision of LSCs. There are currently approximately 400 pupils accessing the 44 LSC provisions within RCT across a range of needs. Table 3 outlines the range of mainstream LSCs currently available in RCT:

Table 3: The range of mainstream LSCs in RCT

ALN Learning Support Classes	Foundation Phase (FP) or Key Stage (KS)	Number of classes	Percentage of Overall LSCs
Autistic Spectrum Disorder (ASD)	FP	5	39%
	KS 2	6	
	KS 3/4	6	
Complex Learning Difficulties	FP	3	27%
	KS 2	6	
	KS 3/4	3	
Hearing Impairment	FP/KS 2	1	2%
Observation & Assessment	FP	1	7%
Early Years Assessment and Intervention	FP	2	
Nurture	FP	2	18%
Social, Emotional & Behavioural Difficulties	KS 2	4	
	KS 3/4	2	
Speech and Language Difficulties	FP/KS 2	2	7%
	KS 3/4	1	
Total		44	100%

A new Welsh medium LSC is due to open in academic year 2022/23.

Table 4 highlights the growth in the number of learners accessing learning support class provision over the past 4 academic years:

Table 4: Numbers of Learning Accessing Learning Support Class Provision

Academic Year	2019/20	2020/21	2021/22	2022/23 (as at August 2022)
Number of learners accessing LSC provision	314	366	368	400

This year on year increase, coupled with the year on year increase in demand for special school placements is a significant potential risk to RCT. The SEND Review 2022 in England suggests that a growth of 19% in the number of pupils accessing specialist placements has been evident between 2016 and 2021. In addition, the SEND Review also highlights that the above increase has, in turn, had a significant impact on local authority budgets in England since 2014/15, with spending on independent and non-maintained special school places increasing by 126%, other special school provision increasing by 38% and a greater number of children being placed in alternative provision with an 18% increase in spending.

Pressures on special school placement in RCT are well documented and are being considered as part of a proposal to establish a new special school in RCT.

Reports have been presented to Cabinet in February 2021, October 2021 and September 2022 on this matter.

It is proposed that a full review of the LA's LSC provision will be undertaken to determine whether there will continue to be sufficient capacity to meet the needs of learners with a range of ALN who require LSC provision. However, **initial data analysis indicates that there will be a need to enhance LSC provision for learners with ASD/social communication difficulties in Key Stage 3/4.**

We currently have only one Welsh medium LSC provision. As part of the Council's strategy to work towards one of the core aims of the new ALN legislation to develop a fully bilingual system there is a commitment to consult on establishing Welsh medium LSC provision in the new school which will replace Heol-Y-Celyn in September 2024. **The consultation will commence in January 2023 with a view to establishing provisions in September 2024, subject to the consultation outcomes. If approved, the additional costs associated with these new provisions will equate to approximately £240k.**

8. NEXT STEPS

8.1 Given the pressures and priorities highlighted the key actions that will be taken over the next 3 years are summarised below and, where possible, potential costs identified:

8.2 **PRIORITY 1: Meeting enhanced responsibilities and costs in the Early Years**

- Due to the increase in the number of children aged 0-3 being referred to the Early Years Forum with an identified ALN or with emerging needs, and the statutory duty upon the LA to provide ALP to an anticipated higher number of pre-school aged children in early years settings under the new ALN system, provision will need to be made for a potential growth in ECF for 0–3-year-olds on a year-by-year basis. The extent of the anticipated growth is yet unknown but will become clearer as we move forwards through the 3-year implementation timetable.
- In light of the significant increase in the number of children aged 0-3 being placed in special schools and LSCs, it is proposed that consideration is given to enhancing early years specialist provision as part of a wider LSC provision review. The creation of additional early years LSC provision would also alleviate immediate capacity issues within the special school sector in RCT as highlighted under a separate report to consult on the opening of a new special school in RCT.

8.3 **PRIORITY 2: Meeting enhanced responsibilities and costs in the 19-25 age range**

- Ensuring that learners with ALN in the 19-25 age range are supported to access Further Education where appropriate will place new statutory duties upon the LA that have not been undertaken previously. As such,

additional capacity will be required by Access and Inclusion to undertake these duties on an ongoing basis. Therefore, it is proposed that an additional ALP Coordinator post is created within the Access and Inclusion Service. It is also proposed to introduce an additional full time Educational Psychologist post to the Educational psychology Service to ensure that FE colleges are supported on both a systemic and individual learner basis to be able to provide high quality ALP to their learners.

- Young people accessing further education with more complex ALN will require the local authority to maintain their IDPs and, therefore, fund any identified ALP to meet their educational needs. As it is not yet possible to quantify the number of young people who will take up the opportunity to access further education, we are unable to quantify the amount of ECF that will be necessary to support learners aged 19-25. It is proposed that a scoping exercise is undertaken over the next 2 academic years to better determine the number and the nature of the ALN of the young people likely to access further education in 2024/25 so that a realistic ECF budget can be set aside. This will, however, need to be reviewed on an ongoing basis as further education for learners with ALN aged 19-25 becomes more established and likely to be more in demand.
- During year 3 of the implementation timetable a scoping exercise will need to be undertaken to determine the potential impact of the introduction of the 19-25 cohort upon the capacity of learner support services. This will include a review of sensory services on a sub-regional basis to deal with the enhanced demand to support learners with visual and hearing impairments.

8.4 PRIORITY 3: Replacement of the statutory assessment process with a single statutory plan:

- By the end of the 3-year implementation plan, all statements will be replaced by IDPs, and any learners newly identified as having an ALN will require an IDP. The process required to draft IDPs is significantly different from the outgoing process of drafting statements and requires officers who have an educational background in ALN to undertake key duties on behalf of the LA both in relation to coordinating LA maintained IDPs and supporting schools and FE colleges to draft school/college-based IDPs. This has had implications for the staffing structure of the Access and Inclusion Service Administrative Service which has undergone a restructure whereby the two Statementing and Liaison Officer posts (SALO) within the ALNAS (Additional Learning Needs Administration Service) who currently undertake an administrative role in drafting statements are due to be deleted from the structure during academic year 2022/23. It is proposed that the SALO posts are replaced by an additional ALP Coordinator as referred to above under section 8.3. The deletion of the two SALOs will offset the cost of the new ALP Coordinator post.

8.5 PRIORITY 4: Ensuring Enhanced Capacity Funding to Meet Need: due to the Enhanced age range that falls under the new ALN legislation and the

anticipated increase in the number of learners requiring an IDP, it is proposed that:

- An ECF budget for early years is earmarked and reviewed annually to ensure that sufficient budget is set aside.
- Access and Inclusion Services and Finance Department undertake a joint scoping exercise to estimate the need for ECF during the first two years of 19-25 implementation. This will also need to be reviewed annually until the new system is fully embedded.
- Review the ECF currently delegated to mainstream schools in line with the number of pupils identified as having an ALN and in the context of wider school budget allocations and make recommendations for an increase in ECF if appropriate.

8.5.1 In addition, Access and Inclusion contributes approximately £50k per annum to Vision Products, a pooled fund between LA education and social services and Health within the Cwm Taf Morgannwg footprint. This arrangement is a cost-effective mechanism for education to provide children with specialist prescribed health-based equipment, such as specialist seating, that enables them to access their learning. Currently, the earmarked funding, which is based annually on level of usage, does not cater for the extended age range within the new Act. Therefore, it is proposed to:

- Undertake a scoping exercise to estimate the potential increase in the contribution to the pooled funding for both the 0-3 and 19-25 age range during 2022/23. This will need to be undertaken annually until the new ALN system is fully embedded.

8.6 **PRIORITY 5: Ensuring sufficient specialist provision to meet need, including Welsh medium:** Due to both the current and anticipated further increase in the number of pupils accessing specialist provision, it is proposed that:

- Access and Inclusion Services undertake a review of the LA's LSC provision with a view to seeking Cabinet approval to consult on any recommendations for an enhancement or reconfiguration of current LSC provision. Delays in the establishment of a special school will place enhanced pressures on mainstream provisions and some interim measures may well be necessary during this period.
- Access and Inclusion Services consult on establishing Welsh medium LSC provision in the new school that will replace the current Heol y Celyn Primary School.

9. **EQUALITY AND DIVERSITY IMPLICATIONS**

9.1 Welsh Language, Equality, and Community Impact Assessments are not required for the purpose of this report.

10. **CONSULTATION**

- 10.1 If approval is granted to progress with the proposals to restructure the Access and Inclusion Service to provide additional capacity support will be sought from Human Resources and Finance in line with the Council's policies and procedures as appropriate.
- 10.2 If approval is granted to progress with the proposal to undertake a review of the LA's LSC provision, a consultation process will be undertaken under the arrangements outlined in the Welsh Government's Statutory Code – School Organisation Code (2nd Edition) (011/2018).

11. FINANCIAL IMPLICATIONS

- 11.1 To ensure the Council is able to comply with its enhanced statutory duties under the new ALN legislation Cabinet approval is sought to increase the capacity of the Access and Inclusion Service by reconfiguring its services, and to secure additional resources to ensure sufficient high-quality ALP is available for learners with ALN within the county borough.
- 11.2 Due to the phased 3-year implementation it is not possible to provide definitive costs for all of the proposals and risks identified within the report. A breakdown of costs has been provided where possible. Where terms and conditions allow, grant funding will be utilised to reduce the pressure upon Council budgets.
- 11.3 Restructure of Access and Inclusion Services:
- Post creations:
- 1 Additional Learning Provision (ALP) Coordinator - £72k (academic year 2023/24)
 - 1 Educational Psychologist - £75k (academic year 2023/24).
- 11.4 Review of LSC provision:
- Additional early years LSC - £120k (academic year 2023/24)
 - 2 x Welsh Medium LSCs - £240k (academic year 2024/25)
 - Wider review and proposals for change to be undertaken in 2023/24 and presented to Cabinet for consideration. It is likely that an additional Key stage 3/4 provision for ASD will be required in academic year 2023/24.
- 11.5 Enhanced Capacity Funding:
- Early Years – to be reviewed annually - £25k per annum minimum
 - 19-25 age range – scoping to be undertaken in 2022/23 to inform implementation from 2023/24. It would be very difficult to predict at this juncture what the potential costs will be.
 - School based ECF – annual review of mainstream needs to be undertaken but a projected growth of at least 13% per annum based on trend data.

- o Undertake a scoping exercise during 2022/23 to project increased costs for specialist equipment.

Table 5: Projected Inescapable Budget Pressures from 23/24-25/26

	Para. Ref.	Additional Financial Investment to 22/23 £,000	Budget pressures 23/24 £,000	Budget pressures 24/25 £,000	Budget pressures 25/26 £,000
Central Inclusion Services Resources					
3 Additional Learning Provision Co-ordinators		217			
Education Psychologist		73			
Complex Case Manager		67			
Family Liaison Officer		36			
Statutory IDPs for Home tuition (no requirement at present)					
2 GR6 Wellbeing Support for Home and Group Tuition (currently funded by grant)					
Sensory & Medical may require an additional teacher - demand for service					
Additional School Funding					
2 Welsh Medium Learning Support classes from Sept 24	7.10			140	100
Learning Support Class - ASD / social communication	7.10		70	50	0
ANF / ECF in mainstream schools - based upon previous growth @ 13%	7.9	507	570	642	
SEBD Nurture - additional Learning Support Assistants in Learning Support classes		140			
Early Years Learning Support Class from Sept 23	7.6		70	50	
New responsibilities for Further Education learners					
ECF for learners in FE from Sept 23.	7.7		TBA		
Additional Equipment from Vision Products for FE learners			TBA		
Additional Educational Psychologist for FE learners from Sept 23	7.7		44	31	
ALP co-ordinator for FE - Sept 23	7.7		42	30	
Post 16 Independent Specialist Placement Institutions - assume funding passes to LAs from WG. No agreed timescale but assumed Sept 24.				498	355
Anticipated funding transferring from WG				-498	-355
New responsibilities for Pre- school learners					
ECF in Early Years settings	7.6		25	TBA	
Early Years Lead Officer (new statutory post)		70			
Early Years ALN specialist teacher		63			
		1,173	821	943	100

11.6 Funding for the above costs has already been identified and/or included within the Council's Medium Term Financial Plan alongside maximising available grant funding opportunities.

12. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

12.1 Section 316 of the Education Act 1996¹ specifies that children and young people with SEN should normally be educated in mainstream schools so long as this is compatible with them receiving the special educational provision that

¹ [Education Act 1996](#)

their learning difficulty calls for, the efficient education of other children and young people and the efficient use of resources.

- 12.2 Section 315 of the Education Act 1996 also requires Local Authorities to ensure that SEN/ALN provision is kept under review. The statutory ALN Code (Wales) 2021, places a statutory duty upon the local authority to keep under review the overall additional learning provision available in its area and supporting arrangements, to ensure provision is sufficient to meet the overall needs of its population of learners with additional learning needs.

13. LINKS TO CORPORATE AND NATIONAL PRIORITIES AND THE WELLBEING OF FUTURE GENERATIONS ACT 2015

- 13.1 There are links to RCTCBC's Education and Inclusion Services Strategic Plan for 2022 to 2025 and its mission: '*To deliver equity and excellence in Education and enhanced well-being for all*'. The proposal will also support delivery against the five strategic priorities, most notably:

- Strategic Priority 2: Supporting educational settings to deliver a transformational curriculum, high quality teaching and learning and improved outcomes for all.
- Strategic Priority 3: Ensuring equity and support for vulnerable learners and their families

- 13.2 The proposals will ensure that two of RCTCBC's three key priorities will be met. These include:

- Economy: Building a strong economy.
- People: Promoting independence and positive lives for everyone.

- 13.3 The proposals will ensure that some of RCTCBC's most vulnerable learners will have the best chance of achieving positive outcomes. The proposals will ensure that the local authority is able to meet its statutory duties in relation to ALN provision during years 2 and 3 of the national 3-year ALN implementation timetable.

- 13.4 Organising services so that they are focussed on early intervention and prevention is a key statutory requirement of the Wellbeing and Future Generations Act 2015² and a key element of RCTCBC's Corporate Plan.

14. STRATEGIC OR RELEVANT TO ELECTORAL WARDS

- 14.1 Given the considerable changes planned in Wales in relation to the statutory provision required to meet the needs of learners with the implementation of the ALNET Act (2018) and the ALN Code (2021) the above proposals to secure additional capacity and resources will ensure that the Council successfully delivers on its statutory obligations, and as such is a strategic proposal relevant to all wards.

² [Wellbeing and Future Generations Act 2015](#)

15. CONCLUSION

- 15.1 From 1st September 2021 Rhondda Cynon Taf has been under a statutory duty to implement year 1 of the national three-year ALN implementation programme. Additional resources provided by Cabinet as the result of a Phase One review of additional capacity and resources have enabled the Access and Inclusion Service to realign and ensure that it was well placed to implement its new statutory duties in Year 1 and 2 of the national ALN implementation timetable. The Access and Inclusion Service has made effective use of Welsh Government ALN grant funding to create additional temporary posts that have been key to enabling the local authority to meet its immediate additional statutory duties under the new ALN legislation.
- 15.2 The above report provides an overview of further risks in terms of additional capacity and resources required by Access and Inclusion and their potential associated costs that are considered necessary to ensure that RCT will be able to fulfil its increasing statutory ALN responsibilities as we progress through years 2 and 3 of the implementation timetable and beyond.
- 15.3 Based on the evidence above it is recommended that approval is given to progress with the above Phase Two and Three proposals during years 2 and 3 of the ALN implementation timetable. This will ensure that the Access and Inclusion Service has sufficient resources to enable the LA to provide high quality ALP to all of its children and young people with ALN aged 0-25. It is also recommended that approval is given for Cabinet to receive a further report on the implementation of the new ALN legislation and any recommendations for future investment at a later stage of the three-year implementation timetable.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

26TH SEPTEMBER 2022

**REPORT OF THE DIRECTOR OF EDUCATION AND INCLUSION SERVICES IN
DISCUSSION WITH THE CABINET MEMBER FOR EDUCATION, YOUTH
PARTICIPATION AND WELSH LANGUAGE (COUNCILLOR R LEWIS)**

**Item: FURTHER UPDATE ON THE IMPLEMENTATION OF THE ADDITIONAL
LEARNING NEEDS AND EDUCATION TRIBUNAL ACT 2018 IN RHONDDA
CYNON TAF COUNTY BOROUGH COUNCIL**

Background Papers

None

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