



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CORPORATE PARENTING BOARD

23rd JANUARY 2023

UPDATE ON THE IMPLEMENTATION OF THE ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (ALNET) ACT 2018 AND ADDITIONAL LEARNING NEEDS (ALN) CODE 2021 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 the Corporate Parenting Board on the implications of the ALNET (Additional Learning Needs and Education Tribunal) Wales Act (2018) and Additional Learning Needs (ALN) Code 2021 for Children Looked After with an ALN and to update the Board on the implementation of the above in Year 2 of the National ALN Implementation timetable in Rhondda Cynon Taf County Borough Council.

2. RECOMMENDATIONS

2.1 It is recommended that Members:

- I. Acknowledge the content of the report.
- II. Agree to receive a further report on ALNET (Wales) Act and ALN Code implementation for Children who are Looked After at a later date if necessary.

3. REASONS FOR RECOMMENDATIONS

3.1 This is an information report.

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. The ALN Implementation timetable 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 an 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 statutory framework is underpinned by three overarching objectives:
- A unified legislative framework to support all children of compulsory school age or below with additional learning needs (ALN) and to support young people with ALN who are in school or further education (FE);
 - An integrated, collaborative process of assessment, planning and monitoring of the support provided to ALN learners which facilitates early, timely and effective interventions; and
 - A fair and transparent system for providing information and advice, and for resolving concerns and appeals.
- 4.5 These in turn are supported by a further eleven core aims within the Act:
- The introduction of the term 'additional learning needs (ALN)';
 - A 0 to 25 age range;
 - A unified, single statutory plan;
 - Increased participation of children and young people;
 - High aspirations and improved outcomes;
 - A simpler and less adversarial system;
 - Increased collaboration;
 - Avoiding disagreements and earlier disagreement resolution;
 - Clear and consistent rights of appeal;
 - The ALN Code;
 - A bilingual system.

4.6 The implementation phases over the 3-year period 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

Any child who has a newly identified ALN during the 3-year period above will automatically access the new ALN system.

- 4.7 The legislation differs in some key aspects for children who are looked after who have additional learning needs as opposed to those who are not looked after.
- 4.8 The definition of a child who is looked after by a local authority is slightly different to that in the Social Services and Well-being (SSWB) (Wales) Act 2014. Chapter 1 of the ALN Code states that, for the purposes of the Code and the Act, a child is looked after by a local authority if they are a child who is looked after by a local authority for the purposes of Part 6 of the Social Services and Well-being (Wales) Act 2014 and not a detained person. However, a child is not looked after for the purposes of the Code and the Act if a personal education plan is not required to form part of the child’s care and support plan under section 83 of the SSWB (Wales) Act 2014.
- 4.9 Therefore the definition of a child being looked after is narrower than under the SSWB (Wales) Act 2014, in particular, a young person above compulsory school age who is looked after for the purposes of Part 6 of that 2014 Act is not looked after for the purposes of the Code and the Act.
- 4.10 Under the new ALN legislation, all children with an identified ALN must have an Individual Development Plan (IDP). This is a statutory plan which provides an overview of the child’s additional learning needs and details the additional learning provision that the child requires in their educational setting.
- 4.11 There are two types of IDP – school-based and local authority maintained IDPs. In general, children who are educated in a mainstream setting will have a school-based IDP whereby the additional learning provision detailed in the IDP is provided by the school from their own resources. Children with more severe and complex needs who are educated in specialist educational settings will have a local authority maintained IDP that is written, maintained and reviewed by local authority education services.

- 4.12 However, in the case of children who are looked after, the duty to decide whether a child who is looked after has ALN and to prepare and maintain an IDP for the child falls under the remit of the local authority, irrespective of the level of need of the child. The rationale for this is to allow for a more holistic approach to meeting the educational and other needs of children looked after with ALN. Therefore, in the instance that a maintained school has concerns that a child who is looked after may have ALN, there is a statutory requirement upon the school to refer the child's case to the local authority that looks after the child. The same duty also applies to the local authority responsible for a child who is looked after by another local authority.
- 4.13 Where a child is looked after 'out of county', the local authority that looks after the child maintains its statutory duty to decide whether the child has an ALN and, if so, to maintain and review the IDP. The exception is where a child looked after is in the area of a local authority in England. Local Authorities in England are not required to compile an IDP as they are bound by the EHCP process, however RCT works with the individual LAs to encourage them to use our processes.
- 4.14 Regardless of whether a child looked after is educated within or outside of the local authority that looks after the child, the Code states that the school where the child is registered has a duty to take all reasonable steps to help the local authority secure the Additional Learning Provision (ALP) specified in the IDP.
- 4.15 Another key difference in respect of children who are looked after who have an ALN is that their IDP must be incorporated into their Personal Education Plan (PEP). This allows for the child's ALP and wider educational provision to complement one another. It also facilitates a holistic approach to planning the child's care as the PEP forms part of the child's care and support plan, including matters relating to health, emotional and behavioural development. As such, the statutory IDP template for children looked after varies slightly to the general IDP template to dovetail with the PEP and avoid duplication.
- 4.16 All IDPs are subject to review in line with the Code and a review has to be undertaken at least annually. However, in the case of a CLA LA maintained IDP it is recommended that the IDP review is undertaken alongside the PEP review as they are intrinsically linked within the new Act. This then allows for any changes in placement to be reflected in the ALP.
- 4.17 Depending on the circumstances, where the local authority is responsible for maintaining an IDP for a child or young person ceasing to become looked after, if the child or young person is a registered pupil at a maintained school or enrolled as a student at a further education college, the local authority can consider whether the child / young person's additional learning provision can be met under a school-based or college based IDP. If appropriate, the responsibility will transfer to the school or college.
- 4.18 Central to the implementation of the new ALN legislation is the requirement to take a person-centred approach to meeting the needs of children and young people. This approach reinforces the importance of the voice of the child / young person in the choices and decisions made for them and promotes more effective collaboration between the child/young person, parents / carers and other relevant stakeholders.

- 4.19 A key element of the person-centred approach is the person-centred meeting that takes place at the beginning of the IDP process, where all stakeholders are invited to participate, and in particular the child/young person and their parents / carers. The 'About Me' profile is a key focus of the meeting to ensure that everyone has a clear understanding of the child/young person in relation to what is important to them and for them, including relationships, and their aspirations for the future. This approach is of particular benefit to children who are looked after as, when done effectively, will enable them to feel valued and empowered to have a voice in their educational provision.

5. LOCAL CONTEXT & UPDATE ON IMPLEMENTATION

- 5.1 Although the Act and the Code set out the statutory responsibilities of local authorities, schools and the Health Board in relation to the new ALN system, it is for each local authority to develop and implement their own processes and procedures to ensure that they can fulfil their new statutory duties.
- 5.2 Prior to the implementation of the new ALN system, Education Services worked collaboratively with Children's Services to develop an agreed process that ensures compliance with the requirement to incorporate the IDP within the PEP. (See CLA IDP Process Maps at Appendix 1a & 1b).
- 5.3 As noted above, the Person-Centred Meeting is central to the development of the IDP. To facilitate a joint PEP and IDP meeting where a child looked after has an ALN, Access and Inclusion has developed an interactive electronic PEP & IDP tool that is completed during the Person-Centred Meeting and submitted to the local authority for the relevant Access and Inclusion officers to draft an IDP.
- 5.4 The tool has two parts: Part 1 PEP: this allows schools to complete an electronic PEP which can be continuously updated throughout the pupil's education journey. If a potential ALN is identified, then Part 2 of the tool is completed. This section provides information to LA officers regarding the additional learning needs of the pupil and the additional learning provision required to meet their needs. This information is then reviewed and used to write the IDP if it is agreed an ALN is evident.
- 5.4 The Virtual School for Children Looked After supports schools in facilitating PCP Meetings when required. The relevant Access and Inclusion Officers who draft the IDPs for 'in county' CLA pupils are the Additional Learning Provision Co-ordinators (ALPCos) and for the CLA pupils residing 'out of county' it is the responsibility of the Virtual School to draft the IDP.
- 5.5 There is a rigorous Quality Assurance Process which takes place before the Draft IDP is shared with the learner, parent/carer and school. For CLA IDPs written by the ALPCos the Virtual School Headteacher quality assures the document and for the CLA IDPs written by the Virtual School the ALPCos undertake the quality assurance. Robust communication is key when quality assuring all IDPs. All contributing parties to PCP/IDP process have five working days to respond to the draft IDP – either agreeing to its content or suggesting amendments, in line with the RCT process maps. Following this

period of consultation and any subsequent amendments being completed/agreed the Final IDP should be issued within 12 weeks of the date the pupil was identified as potentially having an ALN.

- 5.8 As at the 18th January there are 468 CLA pupils of statutory school age. All of these pupils will require a PEP, however only a small number will have an ALN and need to transfer to the new ALN system, requiring a LA maintained IDP. Table 2 below reports the SEN status of the current CLA cohort.

Table 2: SEN status of CLA Statutory Aged Pupils as at 18th January 2023

SEN/ALN status	RCT CLA pupils attending RCT provision	RCT CLA pupils attending OOC provision
School Action	11	7
School Action Plus	34	5
Statemented	53	22
No SEN	246	65
Have or are currently transferring to ALN system	17	8

Please note that in terms of ALN reforms we have two groups of pupils: those in both mandatory and non-mandatory year groups and this will impact on when they are required to transfer. Please refer to table 1 above

- 5.9 To date Access & Inclusion have issued 6 IDPs in relation to CLA pupils who have been newly identified as having an ALN (i.e. these pupils were not previously on the SEN system). Of this total 84% have been issued within the required 12 weeks deadline. It is noted 4 were issued for pupils attending out of county provision (OOC).
- 5.10 In line with the 3 year ALN implementation plan, during academic year 2022/23, 375 RCT statemented pupils are in the mandatory years so will therefore move from the old SEN system to the new ALN system this academic year. Of these 43 were CLA as at 1st September 2022: 20 of which attend RCT provision and 10 attend out of county (OOC) provision. In addition, 13 are CLA attending RCT provision but looked after to another LA and therefore not the responsibility of RCT to transfer. To date, 5 CLA statemented pupils have transferred to the ALN system, 14 CLA pupils who were on the SEN system at School Action/School Action Plus have also been transferred to the new system.
- 5.10 The Virtual School has strengthened the out of county monitoring protocol. All education settings are now required to submit either a termly monitoring proforma which is reviewed by the Virtual Headteacher or attend a meeting with a member of the Virtual School Team to review pupil progress. Should any concerns be identified then actions will be agreed and progress against those actions closely monitored.

- 5.6 Successful transition to post-16 education and training takes careful planning and involves a number of partners, especially for looked after children. They may need extra support and encouragement to make a successful transition to the sixth form, Further Education colleges or other post 16 provisions. Post-16 providers and interested parties should create gateways to learning beyond 16.
- 5.7 In response to the transition implications of the Additional Learning Needs (ALN) Code 2021 the Local Authority has an Additional Learning Needs Project Lead Officer for Post-16 Transition and Further Education. Working in collaboration with the Virtual School, an Enhanced Transition Protocol Pilot Project is being rolled out in two secondary schools in Aberdare. Vulnerable learners including CLA are screened during a multi-agency transition screening meeting (MATSM). The aim is to share information between key partners and use this to identify learners who are likely to need full enhanced transition arrangements to FEI including a multi-agency Person Centred Planning meeting and written transition plan and learners who are likely to need some level of support with transition to Further Education Institutions in addition to universal arrangements.
- 5.7 The Virtual School continues to work closely with the Designated Officers for CLA across all four campus' of Coleg Y Cymoedd. In line with the ALN Code the Local Authority, schools and colleges must wherever possible ensure young people are able to attend their post-16 education and training locally. A specialist post-16 college placement may be considered when a learner's needs are so complex that appropriate local provision cannot be found. The Virtual School offers support and guidance to pupils, carers, parents and schools in these cases.

6. NEXT STEPS

During this academic year, Access and Inclusion and the Virtual School will continue to support pupils, parents/carers and education settings to navigate the new ALN legislation by:

- Continuing to monitor the effectiveness of the new PCP tool to ensure the PEP and IDP reflect the most up to date information and incorporate best practice in pupil voice
- Ensuring CLA LA maintained IDPs are issued in a timely manner to ensure appropriate provision is in place to support the pupil's progress
- Supporting schools to undertake the IDP review process
- Providing Drop-In sessions for schools to facilitate discussions regarding individual CLA pupils and their ALN
- Implementing a robust Out of County tracking protocol to ensure our most difficult to reach learners are fully supported to transition from the SEN to ALN system
- Continuing to provide high quality PEP training and ongoing support to the Designated Persons for CLA in order to ensure CLA pupils with/without an ALN have access to a co-constructed curriculum reflective of the 21st Century learner

- Providing training to school Governors so they are aware of their responsibilities to CLA learners with ALN

7. EQUALITY AND DIVERSITY IMPLICATIONS

7.1 This is an information report.

8. CONSULTATION

8.1 This is an information report.

9. FINANCIAL IMPLICATIONS

9.1 This is an information report.

10. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

10.1 The legal requirements for children who are looked after who have special educational needs or an additional learning need are set down within the Education Act 1996, the Additional Learning Needs and Education Tribunal (ALNET) Act (Wales) 2018 and the associated statutory Additional Learning Needs (ALN) Code (Wales) 2021.

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

11.1 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*', 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

11.2 The information in the report contributes to the priorities within the Council's Corporate Plan, 'Making a Difference'.

11.3 The implementation of the new Welsh Government ALN legislation and the processes and systems developed at a local Council level will ensure that some of RCTCBC's most vulnerable learners will have the best chance of achieving positive outcomes.

11.4 The above also contributes in particular to the following wellbeing goals:

- A prosperous Wales
- A resilient Wales

- A more equal Wales
- A Wales of cohesive communities

11.4 Organising services so that they are focussed on early intervention and prevention is a key statutory requirement of the Wellbeing and Future Generations Act 2015¹ and a key element of RCTCBC's Corporate Plan.

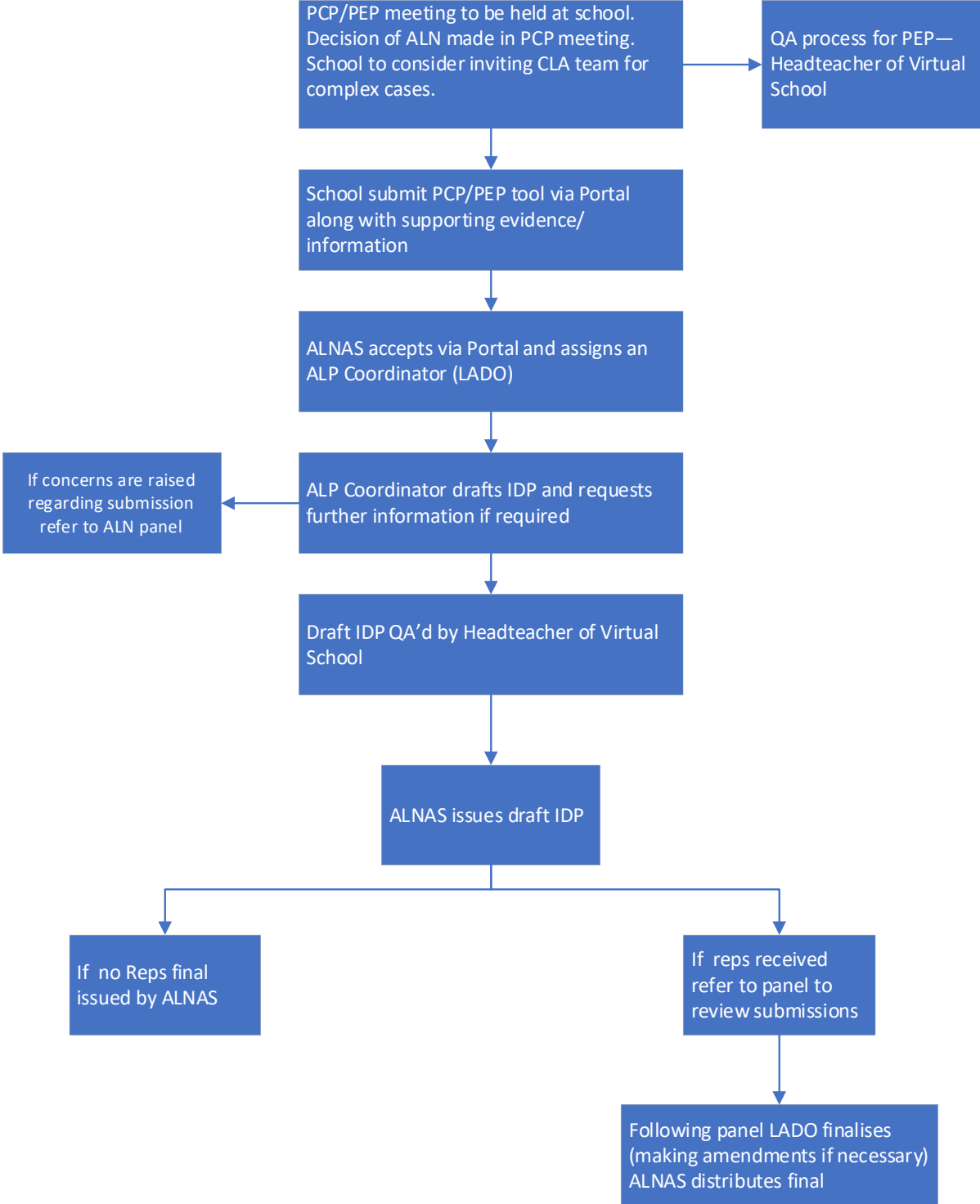
12. **CONCLUSION**

15.1 From 1st September 2021 Rhondda Cynon Taf has been under a statutory duty to implement the national three-year ALN implementation programme. To date, RTCBC's Access and Inclusion Service has successfully implemented Year 1 and mid-point of Year 2 of the implementation programme for children who are looked after with additional learning needs.

15.3 The Access and Inclusion Service is committed to implementing the remainder of the three-year ALN implementation programme to ensure that RCTCBC can meet its statutory duties in relation to providing high quality additional learning provision to all of its children looked after who have additional learning needs.

¹ [Wellbeing and Future Generations Act 2015](#)

RCT CLA Pupils Attending RCT Provision



RCT CLA Pupils Attending Out of County Provision

