



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CORPORATE PARENTING BOARD

19TH MARCH 2024

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)

AUTHOR(S): Ceri Jones, Head of Inclusion Services
Linda Hawkins, Headteacher Virtual School for Children looked After

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 3 of the National ALN Implementation timetable in Rhondda Cynon Taf County Borough Council.

2. RECOMMENDATIONS

It is recommended that Members:

- 2.1 Acknowledge the content of the report.
- 2.2 Consider whether any further information is required on any aspect of the report.

3. REASONS FOR RECOMMENDATIONS

- 3.1 This is an information report.

4. BACKGROUND/WIDER CONTEXT

- 4.1 Following the enactment of the ALNET Act (2018) and the implementation of the associated statutory ALN Code (2021) in September 2021, local authorities (LAs) in Wales are currently in Year 3 of a phased national ALN

Implementation Plan to move from the outgoing Special Educational Needs (SEN) system to the new ALN system.

- 4.2 The overarching aim of the ALN Code is: *‘To support the creation of a fully inclusive system where all children and young people are given the opportunity to success and have access to an education that meets their needs and enables them to participate in, benefit from, and enjoy learning’ (ALN Code 2021, Section 3:1).*
- 4.3 The new ALN legislative framework ensures that all children and young people from age 0–25 with an identified ALN will have a statutory Individual Development Plan (IDP) which sets out the additional learning provision (ALP) they will receive to address their identified ALN.
- 4.4 On 20th March 2023, the Minister for Education and Welsh Language, issued a written statement reporting on the increasing pressures highlighted to the Welsh Government by a range of stakeholders, including ALNCos, local authorities, special schools, headteachers, and other education and third sector organisations and the need to have more time to embed effective change. Consequently, the Minister decided to extend the implementation of the ALN Act from three years to four years with a deadline of September 2025 to fully implement the new ALN system. This means that children who were due to move to the ALN system in Year 3 between September 2023 and August 2024 as shown in Table 1 below will now move to the ALN system between September 2023 and August 2025. This will not affect timescales for the flow-through to Post 16 provision from September 2023.

Table 1: Implementation Phases of the ALNET Transformation Programme 2021-2024

| 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 |

- 4.5 Key factors of the ALN legislation that relate specifically to Children and Young People (CYP) who are looked after with ALN as opposed to those who are not looked after are summarised as follows:
- CYP who have an identified additional learning need and are looked after by Rhondda Cynon Taf (RCT) will have a LA maintained IDP; this includes CYP who reside out of county within Wales.
 - For CYP looked after in the area of a LA in England, schools are not required to compile an IDP as they are bound by the Special Needs and Disability (SEND) legislation and the Education, Health and Care Plan (EHCP) process. In such cases, RCT works with the individual LAs to

encourage them to use our processes. Most out of county schools in England that the Virtual School currently works with are accommodating to the Welsh IDP process.

- CYP who are looked after by other LAs but attend a school within RCT, the ALN/IDP/EHCP responsibilities lie with the home authority that hold the Corporate Parenting duties for those CYP.
- The IDP for CYP who are looked after 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.
- The definition of a CYP looked after under the ALN legislation is different to that in the Social Services and Wellbeing (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 ALN Code and ALNET Act.

4.6 Regardless of whether a CYP who is looked after is educated within or outside of the LA that looks after the CYP the Code states that the school where the child is registered has a duty to take all reasonable steps to help the LA secure the Additional Learning Provision (ALP) specified in the IDP.

4.7 All IDPs are subject to review in line with the Code - this 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. The Virtual School advises that schools hold an initial PCP meeting (to discuss ALN, IDP and ALP) at the same time as the PEP meeting and hold an interim IDP review six months later at the same time as the statutory timescale of the PEP.

4.8 Depending on the circumstances, where the LA is responsible for maintaining an IDP for a CYP ceasing to become looked after and the CYP is a registered pupil at a maintained school or enrolled as a student at a further education college, the Virtual School supports the setting to consider the ALP they can provide to meet CYP's additional learning need(s) and as such the responsibility for the IDP transfers to the school or college.

5. LOCAL CONTEXT AND UPDATE ON IMPLEMENTATION

5.1 Although the Act and the Code set out the statutory responsibilities of LAs, schools and the Health Board in relation to the new ALN system, each LA has developed their own processes and procedures to ensure that they can fulfil their new statutory duties.

5.2 **IDP and PEP Processes and Systems:** To ensure that the LA adheres to its statutory duties in relation to determining whether a CYP looked after has ALN

or to ensure that those who already have an identified ALN have access to appropriate ALP via their IDP, schools and the LA must implement the agreed process of holding a Person-Centred meeting with all stakeholders to facilitate a joint PEP and IDP meeting to discuss the CYP's needs.

- 5.3 RCT schools continue to utilise the interactive, electronic PEP (Part 1) and IDP (Part 2) tool during the Person-Centred Meeting for looked after CYP. In readiness for the academic year 2023/24 the Virtual School team revised the PEP to reflect a more person-centred approach. For example, the PEP now includes content that reflects the 'About Me Profile' that is included in the IDP for children who are not looked after. The content of the 'About Me Profile' focus specifically on the CYP from the perspective of the child and includes questions such as 'What people like and admire about me', 'What is important to me' and 'How best to support me'. The PEP also includes aspirational learning targets which are specific, measurable and relevant to a CYP's areas of need. A further update includes guidance for both in-county and out of county schools to determine whether Part 2 of the PEP/IDP Capture Tool needs to be completed – i.e. when an ALN has been identified.
- 5.4 Although it is the responsibility of the school to facilitate a PCP meeting, the Virtual School Team supports schools in facilitating PCP Meetings for CLA pupils attending Learning Support Classes, Special Schools and PRUs wherever possible. In the case of CLA pupils attending mainstream settings, the Virtual School Team may attend PCP Meetings for pupils who have recently transitioned to a new school or are transitioning from Year 6 to Year 7. Where CLA pupils have recently been excluded, whose attendance is causing concern or have a newly emerging ALN a member of the Virtual School Team will prioritise their PCP meeting.
- 5.5 The LA has specific responsibilities in relation to the PEP and the IDP for CYP who are looked after. To enable the Virtual School to have oversight of the progress made by individual CLA learners an improved system has been implemented during academic year 2023/24 to track pupil progress within the revised electronic PEP. This is done via a Microsoft Form link that has been included in the 'targets' section which requires the Designated Person for CLA who is completing the PEP to RAG rate the Language, Literacy and Communication, Mathematics and Numeracy and Health and Wellbeing targets set for the individual pupil. This now ensures that the Virtual School Team has data in terms of educational progress for CLA pupils over time. The Virtual School Team meet half termly to review this data and pupils highlighted as red or consistently amber are discussed in terms of what type of support and intervention can be offered to the schools in supporting the identified pupils.
- 5.6 All IDPs for CLA pupils are drafted and quality assured by central Access and Inclusion officers. A rigorous Quality Assurance process which takes place before the draft IDP is shared with the learner, parent/carer and school to ensure the ALP included in the IDP is appropriate to meet the identified needs of the pupil. The Virtual School Headteacher quality assures every CLA IDP. All contributing parties to the PCP/IDP process have five working days to respond to the draft IDP – either agreeing to its content or suggesting amendments. 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.

- 5.7 As at the 18th January 2024, there are 459 CLA pupils of statutory school age. Despite all of these pupils requiring a PEP, only a small number will have an identified ALN and require a LA maintained IDP. All CLA learners who have a newly identified ALN will automatically fall within the remit of the new ALN legislation. For those with an existing special educational need (SEN) under the outgoing SEN system, they require transfer to the new ALN system when they are issued with their first LA maintained IDP in line with the national ALN four year implementation timetable. Table 2 below reports the SEN status of the current CLA cohort who will transfer to the ALN system:

Table 2: SEN status of CLA Statutory Aged Pupils as at 18th January 2024

Please note that in terms of ALN reforms we have two groups of pupils mandatory and non-mandatory depending on which group they are categorised within would impact on when they are required to transfer.

| SEN/ALN status | RCT CLA pupils attending RCT provision | RCT CLA pupils attending OOC provision | RCT CLA pupils not attending a provision |
|--|--|--|--|
| School Action | 10 | 5 | 0 |
| School Action Plus | 21 | 5 | 0 |
| Statemented | 28 | 16 | 3 |
| Transferring from school based IDP to LA following BLA | 4 | 0 | 0 |
| LA maintained IDP | 55 | 20 | 0 |
| No SEN/No status recorded | 224 | 64 | 10 |

- 5.8 During financial year 2023/24 up to end of Quarter 3, Access and Inclusion have issued 43 IDP's for CLA pupils who have been newly identified as having an ALN (ie these pupils were not previously on the SEN system)
- 5.9 **Drop-In sessions for schools to facilitate discussions regarding individual CLA pupils and their ALN:** Drop-in sessions were offered to the Designated Person's for CLA in April and May 2023. There were eight delegates at the April session and eight at the May session. Most Designated Persons brought two ALN cases to discuss at the sessions. All delegates said they had received the support they needed in terms of ALN and CLA, five delegates said that they felt the session supported them in the role of Designated Person for CLA, all Designated Persons felt they were more informed as to how to complete Part 2 of the IDP, that they had a clearer understanding of the PEP and IDP being one document and how to manage the timescales for reviews and that they would prefer the personnel from the Virtual School to visit the school and meet the individual pupils that they needed to discuss in terms of ALN; they found it very difficult to explain who the pupil was they wanted to discuss as they were unable to share names due to the session being a group session. As a result the Virtual School Team decided to carry out visits to schools on request in order to discuss individual pupils with

ALN and provide Designated Persons ALN updates via the termly CLA Forums. Drop-In sessions for CLA and ALN are currently aimed at the Pioneer Fostering Group. The first of these sessions took place on the 30th January and the next will take place on the 24th April. The Virtual School Team acted on feedback from the Designated Persons and have supported individual pupils with ALN through school visits. Interventions, guidance and support have ensured that these pupils have re-engaged in their learning, gained the support they need to progress and have continued to attend school after previously being at risk of permanent exclusion. Below are some examples:

| Pupil | ALN concerns | Virtual school support | Impact |
|---------|--|---|---|
| Pupil A | Unable to attend school due to high anxiety. | Online tuition, learning resources, IDP outlining ALP to reintegrate back to school. | Pupil A will be sitting his GCSEs at XXXX this summer. |
| Pupil B | ADHD | Specialist CLA EP support, funding for 1:1, Helping Hands transition Project. | Improved self-regulation, significantly improved learning attitude, increased self-esteem and a positive transition to Year 7 |
| Pupil C | Trauma and attachment | Work carried out with foster carers – strategies for managing behaviour at home which was becoming evident at school. | Improved engagement in class, is now reading at home and school, improved relationships at home and school. |
| Pupil D | ASD | Ongoing education meetings, laptop loan, tuition, referral to panel for more appropriate education setting. | Attending well, reduced number of incidents recorded on internal behaviour tracker. |

5.10 Supporting schools to undertake the IDP review process: The Virtual School Team have attended a large number of IDP review meetings (6-monthly) and advice and guidance has been provided to schools on completing the interim IDP review template. Where the team have attended formal, annual IDP reviews (12-monthly) advice and guidance has been provided on reviewing the appropriateness and relevance of the ALP on the IDP. When discussing pupil targets for 'Language, Literacy and Communication', 'Maths and Numeracy' and 'Health and Wellbeing' advice has been given to ensure the targets are the 'next steps in learning' and are reflected in both IDP and PEP. The Virtual School support schools in reflecting 'pupil-voice' by ensuring either the pupils are attending their PCP

meeting or school staff have met with the pupils prior to the PCP meeting to speak to the individual pupils about their hopes and wishes. Person-Centred tools have been used to ascertain pupils' hopes and wishes. The Virtual School Team ensures that all relevant stakeholders have been invited to the review meeting.

- 5.11 **PEP training** for the new PEP took place at CLA Forum in October 2023 and February 2024. Feedback was positive, although most Designated Persons are hoping that there will be no further changes to the PEP in the near future. 25 delegates attended the forum in October and we received 18 completed evaluations; of the 18, 12 reported that the training on the new PEP had completely addressed its stated objectives and 6 reported the stated objectives were almost addressed. Responses to the question 'How will the training impact your working practices?' included 'it will help me to review our PEP processes', 'it will encourage us to collaborate with the Secondary Schools during the transition PEP' and 'it will mean I am completing the PEP effectively and accurately'. 14 delegates attended the forum in February and feedback on the PEP training included 'a simple way of recording pupil progress is welcomed', 'I liked the wordcloud – this will really reflect the pupil' and 'great to see the PEP has been simplified but still captures the information needed in terms of CLA education'.
- 5.12 The impact the Virtual School expects to see from the new PEP training is that schools are RAG rating (RED – not achieved, AMBER – partially achieved GREEN – fully achieved) the three Areas of Learning and Experience (AOLEs): Language, Literacy and Communication (LLC), Maths and Numeracy (MN) and Health and Wellbeing (HWB); in order for the team to identify schools and pupils who may need support with learning and teaching. With there being more opportunity for individual pupils to contribute to their PEP meeting, we are also expecting to see a more holistic, pupil led approach to the completion of PEPs.
- 5.13 **Out of County Monitoring Protocol:** Due to concerns that some of our most difficult to reach learners with the most complex and challenging needs reside in out of county placements, the Virtual School has developed and implemented an Out of County Monitoring Protocol. This ensures a consistent approach to monitoring the quality of educational provision and enables the Virtual School to track the progress of individual pupils. All education settings are now required to submit either a termly monitoring proforma which is reviewed by the Virtual Headteacher or to 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. Following Estyn feedback in January 2023, the protocol now includes pupil voice thus ensuring that the Virtual School takes a person- centred approach to its monitoring of provision.
- 5.14 **Post 16 ALN Provision:** The new statutory ALN duties for young people with ALN in the 19-25 cohort were enacted in September 2023 for those young people who transferred to the new ALN system by 30th August in line with the national ALN implementation timetable. As indicated above, YP above statutory school age cease to be considered as CLA for the purposes of the ALNET Act and ALN Code and there is no longer an automatic responsibility for the LA to

maintain IDPs for those YP wishing to access post 16 educational provision. However, the Virtual School recognises the need to support the transition of CLA learners with ALN into post 16 education and is working alongside the post-16 ALN Project Lead to implement new processes in line with legislation.

- 5.15 In line with the new ALN Code, consent to having an IDP is sought for all CLA pupils with ALN at post 16 (as it is for CYP who are not looked after) via the revised PEP. To ensure that all CLA pupils at post 16 are offered the opportunity to state their consent for an IDP, the Virtual School Team has shared advice with the Designated Person for CLA in schools on how consent can be ascertained for pupils with ALN, including those with Profound and Multiple Learning Difficulties (PMLD) and/or are Visually/Hearing impaired. In these cases, the question 'How did the pupil communicate to you that they no longer wished to have an IDP?' needs to be recorded on the last page of the PEP.
- 5.16 Successful transition to post 16 education and training takes careful planning and involves a number of partners, especially for looked after CYP. They may need extra support and encouragement to make a successful transition to the Sixth Form, Further Education colleges or other post 16 provisions. The Virtual School Team works closely with the Education, Employment and Training Team in particular with the 'Care2Work' programme which provides CYP looked after, young people with care and support needs and care leavers aged 16-25 with encouragement and support to identify and access a range of training and employment opportunities.
- 5.17 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 LA, 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. Historically, there has been a small number of young people with significant and complex ALN from RCT accessing highly specialist college provision. However, with increased awareness of the new statutory 19-25 age range within the Act, together with the uncertainty that the transfer of funding responsibility from WG to LAs may bring, it is possible there will be an increase in the number of young people and their families expressing a preference to attend an Independent Specialist Post 16 Institution (ISPI). Consequently, a key workstream in the Access and Inclusion's Post 16 ALN Steering Group's Action Plan is the development of a graduated response to support learners with ALN in their local college in terms of universal and additional learning provision and thresholds for implementing college based and LA funded IDPs. 32 CLA learners with ALN are currently accessing their local Further Education college since September 2023. The Virtual School Headteacher is a member of the Access and Inclusion Post 16 ALN Forum and as such will ensure that all CLA pupils needing a specialist college at post 16 will be discussed at this forum.
- 5.18 On a wider basis, there is further scope for the LA (Education and Social Care departments) and local FEIs and Health Boards to work in partnership to explore opportunities to improve the local offer for young people and thus

reduce the need for them to leave their community and local services. This is a complex area and requires time and financial commitments of all partners.

6. NEXT STEPS

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

- Monitoring the effectiveness of the revised PEP within the PCP tool in enabling the Virtual School to track pupil progress and provide challenge where there are concerns regarding under performance.
- Improving performance in line with the local Performance Indicator for issuing CLA LA maintained IDPs in line with designated timescales to ensure appropriate provision is in place to support the pupil's progress.
- Supporting schools to undertake the IDP review process and quality assure the PCP meetings to ensure all relevant stakeholders are invited and that pupil-voice is intrinsic to the process. Challenge and support schools to ensure PCP protocols are being organised correctly.
- Providing the RCT Pioneer Fostering Group information on the Additional Learning Needs and Education Tribunal (ALNET) ACT and Additional Learning Needs (ALN) Code.
- Supporting CLA learners with ALN to transition to post 16 ALN provision.
- Supporting schools in delivering their statutory responsibilities in terms of Corporate Parenting.
- Supporting schools in making trauma informed decisions – in particular decisions around exclusions of CLA pupils.
- Supporting schools to include CLA in school policies and as a regular agenda item in staff meetings. This includes the development of CLA Friendly classrooms.
- Continuing to arrange alternative education for CLA pupils who are not engaging in formal education.

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.

11.5 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

12.1 From 1st September 2021, RCT has been under a statutory duty to implement the national 3-year ALN implementation programme. To date, RCTCBC's Access and Inclusion Service has successfully implemented Year 2 and mid-point of Year 3 of the implementation programme for children who are looked after with additional learning needs.

12.2 The Access and Inclusion Service is committed to working collaboratively with all relevant stakeholders and partners to continue to meet the LA's statutory duties as set out in the new ALN legislation in relation to CYP who are looked after. An evaluation of key actions undertaken to implement the third year of

transition from the SEN system to the ALN system will inform both strategic and operational priorities for the fourth and final year of the National Implementation Timetable in academic year 2024/25.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

CORPORATE PARENTING BOARD

19TH MARCH 2024

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Officer(s) to contact:

Ceri Jones, Head of Inclusion Services

Linda Hawkins, Headteacher Virtual School for Children looked After