



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

Date of Meeting	Thursday 27 th June 2024
Report Subject	Additional Learning Needs and Education Tribunal (Wales) Act 2018
Cabinet Member	Cabinet Member for Education, Welsh Language and Culture
Report Author	Chief Officer Education & Youth
Type of Report	Operational

EXECUTIVE SUMMARY

The report provides an overview of the duties placed on the Council by the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET) and an update of the activity undertaken by the Council and its schools in the third year of implementation.

The report also provides an overview of the services provided by the Inclusion & Progression Service to support children with Additional Learning Needs, in particular those with Autism.

RECOMMENDATIONS

1	Members recognise the revised duties placed on the Council by ALNET and the actions undertaken to implement the new system.
2	Members note the potential financial pressures due to the legislative requirements.

REPORT DETAILS

1.00	Explaining the Additional Learning Needs and Education Tribunal (Wales) Act 2018
1.01	<p>The Additional Learning Needs and Education Tribunal (Wales) Act 2018, known as ALNET, seeks to create a unified system for supporting children and young people with additional learning needs (ALN) from 0 to aged 25. The Act brings together several separate systems and legislation into one for those who access their education in schools, pupil referral units, via elective home education or in further education institutes (FEIs).</p> <p>An important distinction between the old and new systems is that ALNET brings with it legal protection for all those within the ALN process, unlike previous legislation where it was restricted to those with a Statement of Special Educational Need (SEN). This applies to pre-school children and also young people over compulsory school age up to the age of 25. Under ALNET, children and young people identified with ALN, will have an Individual Development Plan (IDP) which captures their individual needs and the additional learning provision (ALP) required to meet these. This is a legal document and replaces all previous SEN documentation. Young people also now have the right to object to the Council making an assessment of ALN or the drafting of an IDP, assuming they have not been identified as lacking capacity to do so. Both parents and children/young people have the right to appeal to the Education Tribunal in relation to an assessment for ALN and also the ALP that has been identified.</p>
1.02	<p>The implementation of ALNET commenced in September 2021 with children and young people being gradually transitioned from the old to the new system; during this period, schools and councils have had to administer the two systems in parallel. Initially, Welsh Government planned for a 3-year implementation programme but this has been extended to allow for a further 12 months in light of the workload associated with the transition. Schools and officers have welcomed this extension given the number of Statements held by the authority. For the academic year 2023/24, the ALN Team planned to convert 289 Statements of SEN to IDPs. To date, 251 are either completed or in process leaving a further 38 to complete before the end of the year. Any cases that are not completed will have their IDP notices issued and the process will continue and be completed in the following academic year.</p> <p>For the academic year 2024/25, there are a further 174 Statements of SEN (pupils in years 4,5 & 9) to be converted. The ALN Team anticipate that these will be completed within the designated timescales (assuming a full team complement and minimal absence). This will see all Statements converted by August 2025, 830 in total.</p> <p>The level of Statement conversion has been a significant achievement by schools and particularly the ALN Team who attended all conversion meetings in the first year to ensure schools and parents felt supported in this process. This ensured that there was a very clear and consistent message in relation to ALNET at all meetings. This approach, whilst challenging from a workload and capacity perspective, served to be time well spent, with schools developing their knowledge and confidence in working through the conversion process and parents feeling supported leading to a reduced level of escalation to the Council.</p>

1.03	<p>Schools continue to develop their processes in response to ALNET. Person-centred practice is a positive development of the legislation and this is more evident in schools. The direct focus on the child along with delegated funding, allows schools to make decisions about the ALP that a child needs to meet their ALN. Previously this would have been determined by the Council based on reports and information submitted to the Moderation Panel as opposed to the process under ALNET where it is based on the school's knowledge and understanding of the child's needs.</p> <p>A review of Estyn reports of inspections which have taken place during the implementation period show a positive picture in the main for Flintshire schools and the support that has been provided by officers. Where there has been a recommendation linked to ALN, officers are working with the schools to address the matters identified.</p>
1.04	<p>Estyn has undertaken a thematic review of the implementation of ALNET and all councils have contributed to that via their local inspector. The review identified a number of recommendations for Welsh Government, councils and schools. A Flintshire action plan was drafted in response to the recommendations and reflects our actions in relation to both the Council and school recommendations. A series of meetings have been undertaken with Additional Learning Needs Coordinators (ALNCos) and headteachers to ensure awareness of the recommendations and appropriate actions in response. A second review has recently commenced by Estyn to further consider implementation of the Act and progress made in relation to the first review.</p>
1.05	<p>The Welsh Government has also commissioned a longitudinal research project on ALNET to look at implementation and the impact of the legislative changes. The project will run for four years and Flintshire has been selected as one of the six councils to contribute this year. The process involves interviews with a number of key officers and also schools; these have been selected at random by the research company with no knowledge or involvement from the Council. All comments will be anonymous and schools are being encouraged to engage with this process to ensure that information about both the positive elements and ongoing challenges related to ALNET are fed back to WG.</p>
1.06	<p>Under ALNET, the Council has specific responsibilities for making decisions around appropriate post 16 educational provision, specifically for young people where specialist placements are required. Previously, Careers Wales held the responsibility to assess need and to draft a Learning & Skills Plan which would outline the individual's needs and inform post-16 decision making. They had a duty to explore and discount all local options prior to making a request to WG for funding for placement at independent special post 16 institutions (ISPIs). WG would then consider the request and decide whether to support it or not.</p> <p>Under the new legislation, responsibility to assess individual need for specialist provision has now moved to the Council. The Council's ALN officer for Post 16 leads on the process and is working closely with schools and providers at a local level and also engages with other post 16 leads at a regional and national level. Whilst the responsibility for determining and agreeing ISPI placements has transferred to the Council, WG are continuing</p>

	<p>to fund the provision. Work continues at Welsh Government level to finalise the formula for the allocation of funding for post 16 learners.</p> <p>Considerable concern had been expressed from Flintshire and a number of other councils in North Wales that the proposed model didn't accurately reflect the level of presenting need which would result in increased financial pressure on the Council. WG officials have engaged with the affected councils and agreed to review the model. A report was commissioned and completed by the North Wales authorities to highlight the local position and this is being considered by WG.</p>
1.07	<p>ALNET places a requirement on Councils to make additional learning provision (ALP) available through the medium of Welsh. The legislation allows for reasonable adjustment at present, but councils have been advised that this could change making it a mandatory requirement. Flintshire has a number of specialist provision settings available to learners, but currently only one is Welsh medium. This means that pupils either transfer to English medium provision or Welsh medium provision in other counties is commissioned. Officers have engaged with our Welsh medium schools to consider the provision available and identify possible options in response to the findings.</p>
1.08	<p>Similar to other authorities, Flintshire is seeing an increase in the need for additional support for children with a neurodivergent (ND) profile, in particular, those with Autism. A budget pressure had been submitted to support the recruitment of a lead officer for the Education & Youth Portfolio and the Learning Adviser Autism role was appointed to in February 2023. The postholder leads on providing support, advice and guidance to schools in relation to their practice both in terms of educational content and delivery with a particular focus on the learning environment. Training and awareness raising across Flintshire schools is a key part of the role.</p> <p>The officer also manages a team of two Inclusion Outreach Support workers who provide direct support and intervention to children, staff and families. Additional support, advice and training is provided through the Education Psychology Service. Flintshire also has specialist Resource bases at both primary and secondary level, which provide access to more specialist intervention within a mainstream setting. Our specialist schools have high numbers of children with Autism and Plas Derwen pupil referral unit is also developing its provision to meet the needs of pupils with an ND profile.</p>
1.09	<p>One of the challenges impacting on children and families is the waiting time for ND assessment. These assessments are undertaken by health professionals and children in the East (Wrexham and Flintshire), have waiting times generally in excess of 3 years.</p> <p>ALNET does not have a requirement for a clinical diagnosis before a child can access ALP and appropriate intervention should be made for all children identified as having ALN, however for some children and families, a formal diagnosis is important. Flintshire has worked as part of the regional Neurodivergent Improvement Project (NDIP) which is a collaboration between the health board and the six councils. The project is funded by WG and money has been secured by Flintshire to enhance the support for children on the waiting list.</p>

	<p>Through this funding, a teacher has been seconded to work across health and education, targeting children between years 6 and 9. The aim of the post is to provide support, advice and guidance to both schools and families and enable the pupil to maintain their mainstream educational placement. The project commenced in January 2024 and has been positively received, building stronger links across health and education and providing welcome support for schools and families. The funding has been extended and the project will run until April 2025. The success has led to a further bid across Flintshire and Wrexham being submitted to increase the capacity of this project.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	<p>The implementation of ALNET remains a workload challenge to both schools and the Council. Concerns have been flagged with WG around the implications on school Additional Learning Needs Co-ordinators (ALNCos) in terms of time required to deliver person-centred practice along with the administrative burden associated with the legislation. Schools receive grant funding from WG to support implementation and this is targeted at enabling ALNCos to complete their role. The Council also receives grant funding to support implementation and this is being used to fund the post 16 post within the ALN Team. WG have identified funding for ALN as an ongoing priority but it is unclear at this point how long the grant will continue for so this is a potential financial risk for the Council.</p>
2.02	<p>Schools are reporting that meeting the needs of their pupils, including those with ALN, is becoming a considerable challenge. Officers work closely with schools to review the provision being made and consider alternative delivery models/strategies to maximise the use of the available funding. Flintshire schools are becoming increasingly creative to adapt their provision and secure positive outcomes for all learners, but the financial challenges remain. Officers are engaging with headteachers to get a better understanding of the level of financial pressure associated with meeting their statutory duties in relation to ALN.</p>

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	<p>Impact assessment is not required as the report is for information only.</p>
3.02	<p>Flintshire has representation at a number of forums to raise any concerns in relation to ALNET including the Association of Directors of Education in Wales, (ADEW), the ADEW Finance sub-group and the National ALN Steering Group to ensure the impact is clearly understood and to influence decision making.</p>

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	None carried out as part of this report.

5.00	APPENDICES
5.01	None

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Welsh Government Website - <i>Additional Learning Needs</i> https://www.gov.wales/additional-learning-needs-special-educational-needs

7.00	CONTACT OFFICER DETAILS
7.01	Contact Officer: Jeanette Rock Senior Manager Inclusion & Progression Telephone: 01352 704017 E-mail: jeanette.rock@flintshire.gov.uk

8.00	GLOSSARY OF TERMS
	<p>Additional learning needs (ALN) : Section 2 of ALNET defines ALN as -</p> <ol style="list-style-type: none"> 1) A person has additional learning needs if he or she has a learning difficulty or disability (whether the learning difficulty or disability arises from a medical condition or otherwise) which calls for additional learning provision. 2) A child of compulsory school age or person over that age has a learning difficulty or disability if he or she – <ol style="list-style-type: none"> a) has a significantly greater difficulty in learning than the majority of others of the same age, or b) has a disability for the purposes of the Equality Act 2010 which prevents or hinders him or her from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools or mainstream institutions in the further education sector 3) A child under compulsory school age has a learning difficulty or disability if he or she is, or would be if no additional learning provision were made, likely to be within subsection (2) when of compulsory school age. 4) A person does not have a learning difficulty or disability solely because the language (or form of language) in which he or she is or will be taught is different from a language (or form of language) which is or has been used at home.

Additional Learning Provision: Section 3 of ALNET defines the term ‘additional learning provision’ (ALP), as -

- 1) “Additional learning provision” for a person aged three or over means educational or training provision that is additional to, or different from, that made generally for others of the same age in -
 - a) mainstream maintained schools in Wales,
 - b) mainstream institutions in the further education sector in Wales, or
 - c) places in Wales at which nursery education is provided.
- 2) “Additional learning provision” for a child aged under three means educational provision of any kind.
- 3) In subsection (1), “nursery education” means education suitable for a child who has attained the age of three but is under compulsory school age.

Young person: for the purposes of ALNET and the ALN Code, a young person means a person over compulsory school age but under the age of 25.

The Association of Directors in Wales (ADEW): ADEW is the professional group of local authority officers accountable for statutory education functions in each of the local authorities in Wales. There are a number of ADEW sub groups including a finance group attended by lead education finance officers.

National Additional Learning Needs Steering Group: A national group established by WG to oversee and inform the implementation of ALNET. Membership includes representation from ADEW, Inclusion officers, ESTYN, Education Wales Tribunal, National Leadership Academy and Health alongside WG representatives.