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Changes to the law on admissions as a result of the implementation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018

Guidance on changes to the law for additional learning needs (ALN).

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Overview

This guidance is non-statutory and aimed at admission authorities, school governing bodies, local authorities, admission appeals panels and admission forums.

Its purpose is to draw attention to changes to the law related to school admissions in light of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (“the 2018 Act”), which are not currently reflected in the School Admissions Code. The current version of that Code was issued in 2013 and can be found in the [school admissions code](#).

The Additional Learning Needs and Education Tribunal (Wales) Act 2018

The 2018 Act establishes the statutory system in Wales for meeting the

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additional learning needs (ALN) of children and young people (the ALN system). It replaces the system for meeting the special educational needs (SEN) of children in schools and learning difficulties and/or disabilities (LDD) in further education.

Under the ALN system, children and young people with ALN have a statutory plan (the individual development plan), which replaces the variety of statutory and non-statutory plans (including statements of SEN) under the SEN and LDD systems. The **Additional Learning Needs Code** provides statutory guidance for school governing bodies, local authorities and others, about the exercise of their functions under the 2018 Act. It also places requirements on them.

Implementation of the 2018 Act commenced from 1 September 2021. The ALN system is being phased in over a period of 3 years up until summer 2024. During this time, the ALN system will operate in parallel to the SEN system, with the SEN system (including statements) being gradually phased out as learners move onto the ALN system.

There are various references in the School Admissions Code to aspects of the SEN system. These remain relevant during the implementation period as the SEN system continues to apply during that period in relation to some learners.

Changes to the law on admissions as a result of the ALN system

The changes set out below are changes to the law and therefore need to be complied with, even though they are not referred to in the School Admissions Code. This guidance should be read alongside relevant provisions of that Code pending any revisions to that Code.

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Duty to admit a child with an individual development plan to a maintained school

From 1 September 2021, section 48 of the 2018 Act requires the governing body of a maintained school in Wales to admit a child to the school if the school is named in the child's individual development plan for the purpose of that section, which is to secure the child's admission to the school. This duty applies despite the limits on infant class sizes and even if admitting the child would result in the school exceeding its admission number. The duty to admit applies at all times, including where a school is named in a plan outside the normal admission round.

Schools may only be named for the purpose of securing admission in certain circumstances, so not all individual development plans will name a school in this way. Where a school is named for that purpose, it is named in section 2D.1 of the individual development plan.

Where a school is named in an individual development plan for the purpose of securing admission, the admissions provisions in the School Standards and Framework Act 1998 do not generally apply.^[1] If a child or the child's parent wishes to appeal against the school named in the child's individual development plan for the purpose securing admission, or the fact that no school is so named, the appeal is to the Education Tribunal for Wales.

Paragraphs 12.100 and 23.54 to 23.59 of the ALN Code deal with the power to name a school for the purpose of securing admission and the duty on the governing body of a school so named to admit. Chapter 23 deals generally with the content of individual development plans and Annexes A and B set out the standard forms for individual development plans. Chapter 33 deals with appeals under the 2018 Act.

^[1] Section 98(7) of the School Standards and Framework Act 1998, as amended by paragraph 7(3) of Schedule to the 2018 Act.

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Excepted pupils for the purposes of the limits on infant class sizes

Paragraphs 3.45 to 3.50 of the School Admissions Code deal with the rules on infant class size limits. Paragraph 3.48 sets out the list of excepted pupils who, in certain circumstances, are not to be counted for the purpose of the limit on infant class sizes.

From 1 September 2021, the following are also excepted pupils:^[2]

- children who were admitted to the school outside the normal admission round as a result of their individual development plan naming the school for the purpose of securing admission
- children with ALN who are normally educated in a special unit in a mainstream school, but receive part of their lessons in a non-special class

^[2] The School Admissions (Infant Class Sizes) (Wales) Regulations 2013 as amended by the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) (No. 2) Regulations 2021, regulation 4.

About this document

This document is a copy of the web page [Changes to the law on admissions as a result of the implementation of the Additional Learning Needs and Education Tribunal \(Wales\) Act 2018](#) downloaded.

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