



Llywodraeth Cymru
Welsh Government

GUIDANCE

Implementing the Additional Learning Needs and Education Tribunal (Wales) Act 2018: practitioner guide

A practitioner guide to the implementation of the Act during 2021 to 2022.

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Introduction

1.1 This guide has been produced to support local authorities, governing bodies

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of maintained schools, management committees of pupil referral units (PRUs), school and PRU teaching staff, additional learning needs coordinators (ALNCos) and early years additional learning needs lead officers (early years ALNLOs) to understand the arrangements for the first year of implementation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALN Act).

1.2 This guide covers how legislation relating to children and young people with SEN in Wales will operate from 1 September 2021. It sets out the mandatory timetable for specific groups of children to move from the special educational needs (SEN) system found in the Education Act 1996 to the additional learning needs (ALN) system. Attention is paid to how the ALN Act will be implemented in the first year of implementation – 1 September 2021 to 31 August 2022.

1.3 The legal provisions necessary to commence the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (the Act) and provide for the transition from the SEN to the ALN system are set out in subordinate legislation, Commencement Orders 2, 5, 6 and 7. Details of the provisions in the commencement orders can be found in the [technical guide](#).

1.4 This guide should be read in conjunction with [the ALN Code](#). The ALN Code sets out how the ALN system works, including providing guidance both about making decisions about whether a child has ALN and preparing an IDP.

1.5 [Person-centred practice \(PCP\)](#) is integral to the ALN system, including the process of converting existing plans and developing individual development plans (IDPs).

1.6 The arrangements for implementing the new ALN system for 2021 to 2022 covers 4 groups of children, which are set out in the table below.

Group 1 Children who are new to the system – the ALN system will commence on 1 September 2021 or 1 January 2022 for newly identified children up to and including Year 10.

The arrangements for children who are new to the system are contained in [Commencement Order 2](#) and [Commencement Order 7](#).

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Group 2 Children who are detained – the ALN provisions in relation to detention commenced on 1 September 2021 for children of compulsory school age who are detained, or for children detained after 1 September 2021.

The arrangements for children who are detained in youth accommodation are provided for in **Commencement Order 2** and in the Additional Learning Needs (Wales) Regulations 2021 for children who are detained under Part 3 of the Mental Health Act 1983.

Group 3 Children who attend a maintained school or PRU and who are not looked after or who do not attend more than one setting.

Children in one of the following mandated years in 2021 to 2022 will move to the ALN system between 1 January 2022 and 31 August 2022: Nursery Years 1 and 2, Year 1, Year 3, Year 5, Year 7 and Year 10.

The arrangements for children who are in group 3 are provided for in **Commencement Order 5**.

Group 4 Children who attend a maintained school or PRU and who are looked after or who are registered at more than one setting.

Children in one of the following mandated years in 2021 to 2022 will move to the ALN system between 1 January 2022 and 31 August 2022: Nursery Years 1 and 2, Year 1, Year 3, Year 5, Year 7 and Year 10.

The arrangements for children who are in group 4 are provided for in **Commencement Order 6**.

1.7 The guidance is divided into sections. The sections provide information on how the ALN Act is to be implemented for the 4 groups of children.

Section 2 Overview of implementation

Section The 4 groups explained

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Section 4 Providing children and parents with information about arrangements for moving from the SEN system to the ALN system

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Section 9 Arrangements where children in group 4 are moved automatically and other circumstances

Overview of implementation

2.1 The ALN system set out in the ALN Act will be fully implemented over the school years 2021 to 2022, 2022 to 2023 and 2023 to 2024.

2.2 The transitional arrangements set out in this guide are necessary in order to implement the ALN system.

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2.3 The approach to implementation during the school year 2021 to 2022 is phased, with the ALN system commencing for specific groups of children on 1 September 2021 and on 1 January 2022.

Implementation from 1 September 2021

2.4 On 1 September 2021, the ALN system will commence for all children up to, and including, Year 10 who are newly thought to have, or are newly identified as having, ALN on or after 1 September 2021, regardless of how their education is delivered. Schools, PRUs and local authorities should refer to the ALN Code for guidance about children who are newly thought to have, or are newly identified as having, ALN.

2.5 For children up to and including Year 11 who are detained, local authorities should refer to the technical guide.

Implementation from 1 January 2022

2.6 Between 1 January 2022 and 31 August 2024, the ALN system will be commenced for children up to, and including, Year 10 who have special education provision (SEP) via early years action/early years action plus or school action/school action plus, attend a maintained school or a PRU. This is a phased implementation with children who are in Nursery Years 1 or 2, Year 1, Year 3, Year 5, Year 7 or Year 10 being the first to be moved on to the ALN system. All children in group 3 and group 4 can, however, request to be moved to the ALN system at any time. This includes children who are looked after and children who are registered at more than one setting.

2.7 The ALN Act will also come into force, on 1 January 2022, for some children who are new to the system. This group of children are those who had SEN, or who were involved in an SEN statement process, on 1 September 2021 but who did not have SEN, or were no longer involved in a SEN statement process, on 1 January 2022. The Act comes into force for this group of children regardless of how their education is delivered.

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Implementation from 1 September 2022

2.8 Children who are in the following mandated year groups will be moved from the SEN system to the ALN system during the 2022 to 2023 school year: Nursery Years 1 and 2, Year 1, Year 5, Year 9 and Year 10.

2.9 Schools, PRUs and local authorities should note that children who were not moved to the ALN system during the 2021 to 2022 school year will automatically move to the ALN system on the 31 August 2022. The ALN Act and the ALN Code apply to these children on 31 August 2022. This means that where it is brought to the attention of a school, PRU or local authority that such a child has, or may have, ALN, the school, PRU or local authority must make a decision, unless exceptions apply.

2.10 In addition, children who are not included in groups 1 to 4 will start to move to the ALN system.

Children not moving in the first year of implementation

2.11 Generally, the following groups of children and young people will not move to the ALN system during the first year of implementation but will move during the second or third year of implementation:

- children with special educational provision (SEP) via early years action/early years action plus or school action/school action plus who are not in Nursery Years 1 or 2, Year 1, Year 3, Year 5, Year 7 or Year 10 during the 2021 to 2022 school year
- children with SEN who do not attend a maintained setting
- young people who are over compulsory school age
- children who are in Year 11, other than where they are detained
- children who have a statement of SEN
- children who are involved in an SEN statement process

2.12 Being involved in an SEN statement process refers to instances where a child or young person is either engaged with a process relating to the SEN

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statement system provided for in the Education Act 1996 or with a process relating to education and health care (EHC) plans provided for in the Children and Families Act 2014.

2.13 Children on early years action/early years action plus or school action/school action plus who are involved in an SEN statement process on 1 September 2021, and who continue to be involved in that process on 1 January 2022, will not move to the ALN system in the first year of implementation.

2.14 Children who are not included in the arrangements for the first year of implementation will move to the ALN system in either the second or third year of implementation. Separate guidance will be published that covers the second and third years of implementation.

Application of the existing system during the implementation period for children in group 3 and group 4

2.15 During implementation, the ALN system will operate in parallel to the SEN system, which will gradually be phased out during the implementation period.

2.16 Until the child is moved to the new law, the SEN legislation (Part 4 of the Education Act 1996) remains in force in relation to the child and SEP must continue to be provided.

2.17 Local authorities, schools and PRUs must continue to comply with the Education Act 1996 and regulations made under it while they still apply to the child, as well as with the arrangements set out in the 'Special Educational Needs Code of Practice for Wales' (the SEN Code).

2.18 The SEN legislation has, however, been modified so that from the 1 January 2022 it will not be possible for children in groups 3 and 4 to request a statutory assessment and it will not be possible to give statements to children in groups 3 and 4.

2.19 This means that until 31 December 2021, the provisions in the Education Act 1996 remain in force and it will be possible to request a statutory

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assessment for children in groups 3 and 4.

2.20 In addition, the Learning and Skills Act 2000 continues to apply in full to children in Year 11 and to young people.

The 4 groups explained

Group 1: children who are new to the system

3.1 The first group of children are those who are new to the system (that is, they are newly identified as having, or newly thought to have, ALN), up to and including Year 10.

3.2 Children who are newly identified as having, or newly thought to have, ALN from 1 September 2021 means children who were not engaged in any way with the SEN system on 1 September 2021. That is, they are children who do not have a statement of SEN, do not have SEP via early years action/early years action plus or school action/school action plus, nor are they involved in any SEN statement process.

3.3 Being involved in an SEN statement process includes, for example, children undergoing a statutory assessment or children awaiting an assessment following a request being made for one under the Education Act 1996.

3.4 The ALN system commences for these newly identified children regardless of how their education is delivered. This includes, for example, children who attend a maintained school, a PRU, an independent nursery, an independent school or an FEI, or children who are electively home educated.

3.5 The ALN Act will also come into force, on 1 January 2022, for some children who are new to the system. This group of children are those who had SEN, or who were involved in an SEN statement process, on 1 September 2021 but who did not have SEN, or were no longer involved in a SEN statement process, on 1 January 2022. The ALN Act comes into force for this group of children regardless of how their education is delivered.

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3.6 All children in group one – up to, and including, Year 10 – who are newly identified as having, or newly thought to have, ALN on or after either 1 September 2021 or 1 January 2022 will move to the ALN system, regardless of how their education is delivered.

3.7 Guidance on implementing the ALN Act for children who fall into group 1 is provided in [the ALN Code](#).

Group 2: children who are detained

3.8 The second group of children are children of compulsory school age (up to, and including, Year 11) who on, or after, 1 September 2021:

- are subject to a detention order and are detained in relevant youth accommodation in Wales or England; or
- are detained in hospital under Part 3 of the Mental Health Act 1983 (in the course of criminal proceedings or for sentencing)

3.9 Where a child is detained on, or after, 1 September 2021, a local authority should refer to the technical guide and chapter 19 of the ALN Code.

Group 3: children who attend a maintained school or PRU and who are not looked after or who do not attend more than one setting

3.10 The third group of children are children up to, and including, Year 10 who have SEP via early years action/early years action plus or school action/school action plus^[1] on 1 January 2022, who attend a maintained school or a PRU and who are not looked after by the local authority or who are not registered at more than one setting. Only children who are sole registered at a school or PRU fall within group 3.

3.11 Schools and PRUs will generally be responsible for moving children in group 3 from the SEN system to the ALN system. There are, however, some instances where schools and PRUs will not move children in group 3 from the

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SEN system to the ALN system (see section 8 of this guide for information about arrangements where children in group 3 are moved automatically and other circumstances).

3.12 A child in group 3 who has not yet moved to the ALN system, or their parents, can ask the school or PRU to move the child to the ALN system at any point during the implementation period (see paragraphs 5.18 to 5.22 and paragraphs 7.1 to 7.3).

Group 4: children who attend a maintained school or PRU, are looked after or who are registered at more than one setting

3.13 The fourth group of children are children up to, and including, Year 10 who have SEP via early years action/early years action plus/school action/school action plus on 1 January 2022, who attend a maintained school or a PRU and who are looked after by a local authority in Wales or are registered at more than one setting.

3.14 Local authorities will generally be responsible for moving children in group 4 from the SEN system to the ALN system. There are, however, some instances where local authorities will not move children in group 4 from the SEN system to the ALN system (see section 9 of this guide for information about arrangements where children in group 4 are moved automatically and other circumstances).

3.15 Schools and PRUs should be aware that a child registered at more than one setting (also referred to as being dual registered, where a child is registered at 2 settings) means the child is registered as a pupil or enrolled as a student at more than one setting, one of which is a maintained school or PRU in Wales, and the child is to be provided with education or training at each of the settings at which the child is a registered pupil or an enrolled student^[2].

3.16 A child in group 4 who has not yet moved to the ALN system, or their parents, can ask the local authority to move the child to the ALN system at any point during the 3-year implementation period.

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Providing children and parents with information about arrangements for moving from the SEN system to the ALN system

4.1 Communication with parents/carers during the implementation period is important. During the autumn term of the 2021 to 2022 school year, schools and PRUs should send information to all children with Special Education Provision via school action/school action plus, and their parents, which:

1. explains the ALN system
2. sets out the school year in which the mandated years will move from the SEN to the ALN system
3. sets out the general process for moving from the SEN system to the ALN system
4. explains the child or the parent's right to request to move to the ALN system
5. provides information about how to access the responsible local authority arrangements for providing people with information and advice about ALN and the ALN system^[3]

4.2 A separate document providing information covering points 1 to 4 above that schools and PRUs can send to parents has been published by the Welsh Government.

4.3 In addition schools, PRUs and/or local authorities should send specific information to children who receive SEP via early years action/early years action plus or school action/school action plus and who are in a 2021 to 2022 mandated year during the 2021 to 2022 school year, and their parents, that:

- states the term in which the child is expected to move to the ALN system – that is, the term in which the school expects, or intends, to issue the IDP notice or the no IDP notice and what the notices mean
- explains the child's and parent's right to request a move to the ALN system
- sets out what happens after an IDP notice or a no IDP notice has been issued
- provides information about what parents can do where they do not agree

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with the decision made by a school or PRU or local authority set out in the IDP notice or no IDP notice

Arrangements for schools and PRUs for moving children in group 3

5.1 Schools and PRUs must move children in group 3 from the SEN system to the ALN system during the 3-year implementation period as follows.

Spring and summer terms, school year 2021 to 2022

Nursery Years 1 or 2, Year 1, Year 3, Year 5, Year 7 or Year 10 (referred to as 2021 to 2022 mandated years)

School year 2022 to 2023

Nursery Years 1 and 2, Year 1, Year 5, Year 9 and Year 10 (2022 to 2023 mandated years)

School year 2023 to 2024

Year 4 and Year 8 and any other pupils with SEN on 1 January 2022 who did not move to the ALN system during the first and second years of implementation (2023 to 2024 mandated years)

5.2 Generally schools and PRUs will move a child to the ALN system by giving an IDP notice or a no IDP notice. There are some instances where schools and PRUs will not move children in group 3 from the SEN system to the ALN system. These instances are where:

- a local authority issues an ALN notice
- a child automatically moves to the ALN system due to a change of

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circumstance

- a child automatically moves to the ALN system at the end of a mandated year

5.3 Section 8 of this guide provides further information about instances where a child automatically moves from the SEN to the ALN system.

5.4 Where a child is looked after by a local authority in England and is registered at a maintained school or PRU in Wales, the school or PRU will be responsible for moving the child.

Deciding if a child has ALN and issuing an IDP notice or no IDP notice

5.5 From January 2022, schools and PRUs must make a decision about whether children in group 3 who fall into a 2021 to 2022 mandated year have ALN^[4].

5.6 This includes children who had SEP via early years action/early years action plus or school action/school action plus on 1 January 2022 and who subsequently cease to have SEP. This is because group 3 includes all children who had SEP on 1 January 2022, regardless of whether they no longer have SEN later on in the school year. As a result, the school or PRU must decide if the child has ALN.

5.7 Schools and PRUs will also have to make decisions about whether a child has ALN where the child, or their parent, requests the child moves to the ALN system by asking the school or the PRU to issue an IDP notice.

5.8 It is likely that children who have SEP via early years action/early years action plus or school action/school action plus on 1 January 2022 will have ALN.

5.9 Having decided whether or not a child has ALN, the school or PRU must issue an IDP notice or a no IDP notice to the child and their parents.

5.10 It is the IDP notice, or the no IDP notice, that moves a child from the SEN system to the ALN system.

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5.11 Where a school or PRU has not given an IDP notice or a no IDP notice to a child in a 2021 to 2022 mandated year (who has not already moved to the ALN system), and their parent, during the spring and summer terms of the school year 2021 to 2022, the child will automatically move to the ALN system on 31 August 2022.

IDP notices

5.12 An IDP notice is issued where the school or PRU has decided a child has ALN. The effect of the notice is that the decision is treated as if it were made on the date of the notice. The date of the notice is the date the new law applies and the old law ceases to apply for the child. The school or PRU must issue an IDP within 35 school days of the date of the notice other than where:

(a) there are exceptional circumstances

(b) the school or PRU considers the child has ALN:

(i) that may call for additional learning provision (ALP) it would not be reasonable for the school or PRU to secure

(ii) the extent or nature of which it cannot adequately determine, or

(iii) for which it cannot adequately determine ALP

(c) the school or PRU requests a local authority in England to secure an assessment under section 36(1) of the Children and Families Act 2014

(d) a local authority in England maintains an education healthcare plan (EHC) for the child or young person

5.13 Where schools or PRUs have issued IDPs prior to 1 January 2022, for example as part of a pilot to become familiar with preparing IDPs, those IDPs have no effect in law. When moving a child who has an IDP which was prepared prior to January 2022 from the SEN system to the ALN system, an IDP notice or a no IDP notice (as appropriate) will need to be given to the child and their

parent.

5.14 Once the ALN system applies to a child, and that child subsequently becomes a child who is looked after by a local authority in Wales or becomes registered or enrolled at another setting, the school or PRU must refer the child's case to the local authority^[5].

5.15 A school or PRU can refer a child's case to the local authority where an IDP notice has been issued and the needs of the child means the school considers the child now has ALN:

- that may call for ALP it would not be reasonable for the school to secure
- the extent or nature of which it cannot adequately determine
- for which it cannot adequately determine ALP

5.16 ALNCos have responsibility for ensuring that a pupil's ALN are identified and records are kept of decisions about ALN.

No IDP notices

5.17 A no IDP notice is issued where the school or PRU does not consider the child has ALN. The notice is given to a child and a child's parent which confirms the school or PRU has decided the child does not have ALN for the purposes of chapter 2 of Part 2 of the ALN Act. The ALN system applies from the date of the notice and the old law ceases to apply.

The right to request an IDP notice

5.18 Children in group 3 or their parents have a right to make a request, at any time, to the school or PRU that they move to the ALN system. Children, or their parents, can do this by asking the school or the PRU to issue an IDP notice.

5.19 The right to request an IDP notice applies to all children in group 3 regardless of when it is proposed they move to the ALN system.

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5.20 Children, or their parents, can make the request for an IDP notice either verbally or in writing.

5.21 The school or PRU must give the child and their parent an IDP notice or a no IDP notice within 15 school days of the request. As above, where the school or PRU considers the child has ALN and issues an IDP notice, the school or PRU must prepare an IDP within 35 school days of the date of the notice, other than where exceptions or exceptional circumstances apply.

5.22 The ALNCo has responsibility for ensuring that a child's ALN are identified and records are kept of decisions about ALN and IDPs[6]. This includes the date upon which a request to move to the ALN system is made and the date on which the decision about whether to issue an IDP notice or a no IDP notice is made. ALNCos may choose to undertake this task themselves or arrange for the task to be undertaken by others.

Provision before an IDP is agreed

5.23 As stated above, the date of the IDP notice or the no IDP notice is the date the new law applies and the old law ceases to apply to a child. Since the school or PRU has up to 35 school days to issue the IDP from the date of the IDP notice, there will be a period of time where provision delivered by early years action/early years action plus or school action/school action plus does not apply and the provision under the ALN system has not yet been agreed via an IDP. During this time, schools and PRUs must take reasonable steps to deliver provision to support the child (for guidance on this duty, see the ALN Code, chapter 12, pages 98 to 100).

Preparing an IDP

5.24 When preparing the IDP, the school or PRU must have regard to the SEP provided to the child to facilitate continuity of provision during the transition from the SEN system to the ALN system (for information about preparing an IDP see the ALN Code, chapter 12, pages 97 to 98).

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Automatically moving to the ALN system at the end of a mandated year

5.25 Any child in a 2021 to 2022 mandated year who has not moved to the ALN system by the end of 2021 to 2022 school year will automatically move to the ALN system at the end of the school year (31 August 2022). This is referred to as the automatic end of year transfer provision (section 8 of this guide provides further information about instances where a child automatically moves from the SEN to the ALN system).

Arrangements for local authorities for moving children in group 4

6.1 The ALN Act will come into force for children who are in group 4 from 1 January 2022.

6.2 Group 4 consists of children up to, and including, Year 10 who, on 1 January 2022, have SEP via early years action/early years action plus or school action/school action plus, who are:

- registered at a maintained school or PRU in Wales and registered or enrolled at another setting and a local authority in Wales is responsible for the child; or
- registered at a maintained school or PRU in Wales and looked after in Wales by a local authority in Wales

6.3 Local authorities must move children in group 4 from the SEN system to the ALN system during the 3-year implementation period as follows:

Spring and summer terms, school year 2021 to 2022

Nursery Years 1 or 2, Year 1, Year 3, Year 5, Year 7 or Year 10 (referred to as

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2021 to 2022 mandated years)

School year 2022 to 2023

Nursery Years 1 or 2, Year 1, Year 5, Year 9 and Year 10 (2022 to 2023 mandated years)

School year 2023 to 2024

Year 4 and Year 8 and any other pupils who did not move to the ALN during the first and second years of implementation (2023 to 2024 mandated years)

6.4 There will, however, be some instances where a local authority will not have to move children in group 4 from the SEN system to the ALN system. This is because a child has already moved to the ALN system due to, for example, an automatic transfer due to a change of circumstance or due to an automatic transfer at the end of the year (see section 9 for arrangements where children in group 4 are moved automatically and other circumstances).

Deciding if a child has ALN and giving an IDP notice or a no IDP notice

6.5 In order to move a child in group 4 to the ALN system, the appropriate local authority would normally issue an IDP notice or a no IDP notice. Before giving the notice, local authorities must decide whether the child has ALN (see chapter 20 of the ALN Code – ‘Identifying ALN and deciding upon the ALP required’).

6.6 The appropriate local authority is the local authority in Wales that looks after a child or, where a child is not looked after, is the local authority responsible for the child (a local authority is responsible for a child if they are in the area of the local authority).

6.7 From January 2022, the appropriate local authority must make a decision about whether children in group 4 who fall into a 2021 to 2022 mandated year

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have ALN.

6.8 This includes children who had SEP via early years action/early years action plus or school action/school action plus on 1 January 2022 and who subsequently cease to have SEP. This is because group 4 includes all children who had SEP on 1 January 2022, regardless of whether they no longer have SEN later on in the school year. As a result, the appropriate local authority must decide if the child has ALN.

6.9 The appropriate local authority will also have to make decisions about whether a child has ALN where the child, or their parent, requests the child moves to the ALN system by asking the appropriate local authority to issue an IDP notice.

6.10 It is likely that children who have SEP via early years action/early years action plus or school action/school action plus on 1 January 2022 will have ALN.

6.11 Having decided whether or not a child has ALN, the appropriate local authority must issue an IDP notice or a no IDP notice to the child and their parents.

6.12 It is the IDP notice, or the no IDP notice, that moves a child from the SEN system to the ALN system.

6.13 Where the appropriate local authority has not given an IDP notice or a no IDP notice to a child in the 2021 to 2022 mandated year (who has not already moved to the ALN system) and their parent during the spring and summer terms of the school year 2021 to 2022, the child will automatically move to the ALN system on 31 August 2022.

IDP notices

6.14 An IDP notice is given where the appropriate local authority has decided a child has ALN. The effect of the notice is that the decision the child has ALN is treated as if it were made on the date of the notice. The date of the notice is the date the new law applies and the old law ceases to apply for the child. The

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appropriate local authority must prepare an IDP within 12 weeks of the date of the notice, other than where exceptional circumstances apply.

6.15 Where a local authority has given IDPs prior to 1 September 2021, for example as part of a pilot to become familiar with preparing IDPs, those IDPs have no effect in law. When moving a child who has an IDP that was prepared prior to January 2022 from the SEN system to the ALN system, an IDP notice or a no IDP notice (as appropriate) will need to be given to the child and their parent.

No IDP notice

6.16 A no IDP notice is issued where the appropriate local authority does not consider the child has ALN. The notice is given to a child and a child's parent that confirms the local authority has decided the child does not have ALN for the purposes of chapter 2 of Part 2 of the ALN Act. The ALN system applies from the date of the notice and the old law ceases to apply.

6.17 Where a child, or their parent, does not agree with the decision made by a local authority, they may appeal to the Educational Tribunal for Wales against the decision.

Right to request an IDP notice

6.18 Children in group 4 or their parents, can request an IDP notice at any point during the implementation period.

6.19 The request can be made either verbally or in writing.

6.20 The appropriate local authority must give an IDP notice or a no IDP notice within 15 working days of the request. As above, where the appropriate local authority considers the child has ALN and gives an IDP notice, the appropriate local authority must prepare an IDP within 12 weeks of the date of the notice, other than where exceptional circumstances apply.

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Preparing an IDP

6.21 As stated above, the date of the IDP notice or the no IDP notice is the date the new law applies and the old law ceases to apply to the child. Since the local authority has up to 12 weeks to give the IDP from the date of the notice, there will be a period of time where provision delivered by the local authority and/or schools and PRUs does not apply and the provision under the ALN system has not yet been agreed via an IDP. During this time schools and PRUs must take reasonable steps to deliver provision to support the child (for guidance on this duty, see the ALN Code, chapter 12, pages 98 to 100).

6.22 When preparing the IDP the local authority must have regard to any SEP provided to the child to facilitate continuity of provision during the transition from the SEN system to the ALN system (for information about preparing an IDP see the ALN Code, chapter 11, pages 91 to 92).

Automatically moving to the ALN system at the end of a mandated year

6.23 Any child in a 2021 to 2022 mandated year who has not moved to the ALN system by the end of 2021 to 2022 school year will automatically move to the ALN system at the end of the school year (31 August 2022). This is referred to as the automatic end of year transfer provision (see section 9 for arrangements where children in group 4 are moved automatically and other circumstances).

Arrangements where a local authority issues an ALN notice

7.1 An ALN notice is not the same as an IDP notice because the notice does not involve making a decision – the function of the ALN notice is simply to move the child to the ALN system. It is not limited to being issued in a particular year of implementation.

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7.2 A child, or the parent of a child, in group 3 who is no longer registered at a maintained setting may request the appropriate local authority issues an ALN notice.

7.3 In relation to a child in group 3, or their parent, requesting the appropriate local authority issues an ALN notice, if a local authority in Wales is not responsible for the child (for example because the child lives in England and is registered at a maintained school or PRU in Wales), then the appropriate local authority is the local authority in whose area the maintained school or PRU is located.

7.4 In addition, the local authority may, of its own volition, issue an ALN notice in exceptional circumstances (see paragraphs 7.11 to 7.17).

7.5 The effect of the ALN notice is that the ALN system applies on the date of the notice and the SEN system ceases to apply on that date. As a result, the duties provided for in the ALN Act and the ALN Code apply from that date.

7.6 The actions a school or PRU need to take when a local authority issues an ALN notice are discussed below.

A. A local authority issues an ALN notice to a child in group 3 who is no longer registered at a maintained setting

7.7 The majority of children in group 3 who cease to be registered at their school or PRU will automatically move from the SEN system to the ALN system. This does not apply where the child ceases to be a registered pupil due to making an ordinary transition (for example moving from Year 2 to Year 3 or Year 6 to Year 7) or due to a school/PRU closure (see section 8 – ‘Arrangements where children in group 3 are moved automatically and other circumstances’).

7.8 Where a child in group 3 does not automatically move to the ALN system when they cease to be registered at their school or PRU and does not join another school or PRU, the child or their parents would not be able to ask for an IDP notice. This is because children in group 3, and their parents, can only ask a

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school or a PRU to issue an IDP notice.

7.9 In this circumstance, children in group 3 or their parents could ask the appropriate local authority to issue an ALN notice.

7.10 No action will need to be taken by a school or a PRU in response to a local authority issuing an ALN notice to a child who is not registered at a school or a PRU – the local authority is responsible for making the decision and, where required, preparing an IDP (as set out in the ALN Code). Responsibility resides with the local authority since the child is no longer registered at the school or PRU.

B. A local authority issues an ALN notice to a child in group 3 or group 4 in exceptional circumstances

7.11 In exceptional circumstances, a local authority may, without a request from a child or their parent, move a child to the ALN system at any time.

7.12 Schools and PRUs can ask a local authority to issue an ALN notice. The local authority does not have to issue an ALN notice in response to the request. The local authority will need to decide whether there are exceptional circumstances.

7.13 Example A: a child is not in a mandated year group that is due to move over within the current school year and the child's needs have increased beyond the SEP that can be delivered in a mainstream school and it cannot be inferred that the child, or their parent, has requested an IDP notice be given^[7].

7.14 The reason this would be an exceptional circumstance is because it is not possible to move a child who is not in a mandated year group that is due to move over within the current school year. In addition, it is not possible for a school or a PRU to request a local authority undertake a statutory assessment for a child in groups 3 or 4. Thus, it would not be possible for the local authority to place the child in a special school as the old law requires that a child attending a special school should have a statement.

7.15 The power to issue an ALN notice means the local authority can issue an ALN notice and, in doing so, the child moves from the SEN system to the ALN system on the date of the notice and the ALN Act and the ALN Code applies to the child.

7.16 In this example, as set out in the ALN Code, since it would appear to the school or PRU the child has ALN, the school or PRU must either make a decision about whether the child has ALN and issue an IDP within 35 school days, other than where exceptions or exceptional circumstances apply; or, where exceptions apply – such as the school or PRU not being able to determine the extent or nature of the child’s ALN, refer the case to the local authority.

7.17 Example B: a child in group 3 has been removed from the school or PRU register due to leaving the school at the end of a transition year^[8] (for example Years 6 to 7). The child didn’t start at another maintained school or PRU in Year 7, because they became home educated or attended an independent school. The local authority have become aware the child has SEN and consider the child requires SEP to access education. Since the child no longer attends a maintained school or PRU, the child will not move to the ALN system until 31 August 2024. The ALN notice enables the local authority to move the child to the ALN system and to make a decision about whether the child has ALN and, where required, to issue an IDP.

Arrangements where children in group 3 are moved automatically and other circumstances

A. Automatically moving to the ALN system due to a change of circumstance

8.1 Children in group 3 who have not already been moved to the ALN system will automatically move from the SEN system to the ALN system where they have one of the following changes of circumstance:

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a) was registered at a maintained school or PRU on 1 January 2022 and, at some point after 1 January 2022, also became a registered pupil or an enrolled student at another institution (that is, registered at more than one setting)

b) was registered at a maintained school or PRU on 1 January 2022 and, at some point after 1 January 2022, became looked after by a local authority in Wales; or

c) ceased to be a registered pupil at the maintained school or PRU at which the child was a registered pupil on 1 January 2022, other than where the child ceases to be a registered pupil due to making a transition or due to a school or PRU closure (see paragraphs 8.15 to 8.22).

8.2 An automatic move as a result of the change of circumstances set out above means a child will move from the SEN system to the ALN system on the date of the change of circumstance and the ALN Act and the ALN Code applies to the child.

8.3 Schools and PRUs do not have to take action in relation to a child if that child has moved as a result of the change of circumstances described at (a) and (b) in paragraph 8.1. The responsibility for doing so lies with local authorities. Schools and PRUs should, however, alert the appropriate local authority that the child has moved to the ALN system and must bring it to the attention of the local authority that the child may have ALN.

8.4 Where a child has a change of circumstance described at (c) in paragraph 8.1, the school or PRU the child is leaving should inform the receiving school or PRU the child has moved to the ALN system and may have ALN.

8.5 As set out in the ALN Code, where it is brought to the attention of, or otherwise appears to, a school or PRU a child has ALN, the school or the PRU has 35 school days to make a decision and, where required, prepare an IDP.

8.6 Where a child has moved to the ALN system, and that child subsequently becomes a child who is looked after by a local authority in Wales or becomes registered or enrolled at another setting, the school or PRU must refer the child's case to the appropriate local authority^[9].

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8.7 Schools and PRUs need to be aware, the change of circumstance provision for children in group 3 is not the same as for children in group 4.

8.8 This means that where a child in group 4 was, for example, registered at more than one setting and, at the end of Year 6, becomes sole registered at a maintained school or PRU, the child will automatically move to the ALN system^[10] and the ALN Act and the ALN Code applies to the child.

8.9 Where this arises, the local authority should inform the school or PRU the child has ceased to be registered at more than one setting and, therefore, the child has automatically moved from the SEN system to the ALN system.

B. Automatically transferring to the ALN system at the end of a mandated year

8.10 Where a school or PRU has not provided a child in a 2021 to 2022 mandated year (who has not already moved to the ALN system) and their parent with an IDP notice or a no IDP notice by 30 August 2022, the child will automatically transfer to the ALN system on 31 August 2022.

8.11 Automatically transferring children to the ALN system at the end of the school year has been introduced to ensure all children in group 3 move to the ALN system during the school year that their mandated year is due to move.

8.12 The automatic transfer means the ALN Act and the ALN Code applies to the child on the 31 August 2022. As set out in the ALN Code, this means from the date it is brought to the attention of or otherwise appears to a school or PRU that a child may have ALN, the school or PRU will have 35 school days to make a decision about whether the child has ALN and, where the decision is that the child has ALN, to prepare and issue an IDP (see ALN Code, chapter 12, pages 94 to 96 for guidance about the duty to decide whether a child has ALN).

8.13 If the child was in receipt of school action/school action plus before automatically transferring to the ALN system, then it would appear to the school or PRU that the child has ALN and the school or PRU must make a decision under section 11 of the ALN Act. That is, the school or the PRU must make a

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decision about whether the child has ALN within 35 days of the start of the 2022 to 2023 school term (1 September 2022).

8.14 If the child is no longer in receipt of SEP via school action/school action plus before automatically moving to the ALN system, the duty to decide under section 11 of the ALN Act applies once it is brought to the attention of, or otherwise appears to, the school or PRU that the child may have ALN.

C. Arrangements where children move schools due to transition or school closure

Transition

8.15 Schools and PRUs need to be aware the arrangements for children who are in group 3 who change schools due to transition or school closure are not the same as the arrangements for children who are in group 4.

8.16 Generally, children in group 3 will automatically move to the ALN system where they change school or PRU. The exception to this is where they move school or PRU due to:

- making the transition between Year 2 and 3 (for example infant to junior school) or between Years 6 and 7 (primary to secondary school)
- their school or PRU closing^[11]

8.17 Where a child in group 3 was registered at a maintained school or PRU on 1 January 2022 and ceases to be a registered pupil at the school or PRU due to transition or school closure and moves to another maintained school, they will move during the school year that their mandated year is due to move.

8.18 The following example explains how the arrangements work in the case of a school or PRU closure.

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School or PRU closures

8.19 Where a child in group 3 ceases to be a registered pupil at the school or PRU due to a school or PRU closing before they are moved to the ALN system and the child moves to another maintained school or PRU, they will move during the school year their mandated year is due to move.

A child ceases to be registered at a school or PRU due to the school or PRU closing before their mandated year and moves to another school or PRU

8.20 A child in group 3 who is in Year 4 in 2021 to 2022 ceases to be registered at their school or PRU at the end of the school year 2021 to 2022 because the school or PRU closes. The child joins another school or PRU at the start of the 2022 to 2023 school year and is in receipt of SEP. In this instance, the child is due to move to the ALN system during the 2022 to 2023 school year and the child will either:

- not have moved to the ALN system
- have been moved to the ALN system by the previous school or PRU issuing an IDP notice or a no IDP notice, where this had been requested by the child or their parent
- have been moved to the ALN system by the local authority issuing an ALN notice

8.21 Where the child has not moved to the ALN system the receiving school or PRU must issue a notice to the child, and their parent, during the 2022 to 2023 school year to move the child to the ALN system. This is because children in Year 4 in 2021 to 2022 will be in Year 5 in 2022 to 2023 which is a mandated year in the 2022 to 2023 school year.

8.22 Where the child, or their parent, had requested the school or PRU issue an IDP notice and an IDP was prepared during the 2021 to 2022 school year, the receiving school or PRU must maintain the IDP.

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D. Arrangements where children move into a mandated year after the start of the school year

8.23 There will be rare occasions where a child moves into a 2021 to 2022 mandated year after 1 January 2022. This could be due to, for example, a child moving forward a year from Year 9 into Year 10 or back a year from Year 8 to Year 7 after 1 January 2022. Arrangements for children who move into a mandated year after the start of the school year can be found in the technical guide (see paragraphs 5.96 to 5.97).

Arrangements where children in group 4 are moved automatically and other circumstances

A. Automatically moving due to a change of circumstances

9.1 Children in group 4 who have not already been moved to the ALN system will automatically move from the SEN system to the ALN system where they cease to be:

- looked after
- registered at more than one setting

9.2 These change of circumstance arrangements apply in all instances, including where a child makes an ordinary transition (moves from Year 2 to Year 3 or moves from Year 6 to Year 7) or the school/PRU closes.

9.3 This means where a child in group 4 was, for example, registered at more than one setting and at the end of Year 6 becomes sole registered at a school or PRU, the child will automatically move to the ALN system^[12].

9.4 Where a child who was registered at more than one setting becomes sole registered at a school or PRU, the local authority should inform the school or

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PRU the child has ceased to be registered at more than one setting and, therefore, the child has automatically moved to the new law and that the duties placed on the school or PRU in the ALN Act and the ALN Code apply to that child.

B. Automatically moving to the ALN system at the end of a mandated year

9.5 Where a local authority does not have the opportunity to provide a child in a mandated year (who has not already moved to the ALN system) and their parent with a notice, a safeguard has been put in place to ensure all pupils within a mandated year move to the ALN system.

9.6 Any child in a 2021 to 2022 mandated year who has not moved to the ALN system by the end of the 2021 to 2022 school year will automatically move to the ALN system at the end of the school year (31 August 2022). This is referred to as the automatic end of year transfer provision.

The provision means that at the end of the school year the ALN Act and the ALN Code will apply to the child and Part 4 of the Education Act 1996 will cease to apply to the child.

C. Children in group 3 who have a change of circumstances

9.7 Where a child in group 3 becomes looked after by a local authority or becomes registered at another setting, the child will automatically move from the SEN system to the ALN system (see section 8 – ‘Arrangements where children in group 3 are moved automatically and other circumstances’).

9.8 This means that the ALN Act and the ALN Code apply to the child from the date the child became looked after or became registered at more than one setting.

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D. Moving into a mandated year after the start of the school year

There will be rare occasions where a child moves into a 2021 to 2022 mandated year after 1 January 2022. This could be due to, for example, a child moving forward a year from Year 9 into Year 10 or back a year from Year 8 to Year 7 after 1 January 2022. Arrangements for children who move into a mandated year after the start of the school year can be found in the technical guide (see paragraphs 5.96 to 5.97).

Footnotes

[1] For the purposes of this guidance, early years action/early years action plus and school action/school action plus is used to mean any SEP delivered via a non-statutory plan, including early years action/early years action plus.

[2] ALN Code, page 23.

[3] See the ALN Code, page 4 for information about children and young people for whom a local authority is responsible.

[4] Chapter 2 of '**The Additional Learning Needs Code for Wales 2021**' deals with the definition of ALN and chapter 20 provides guidance on identifying ALN and deciding upon the ALP required.

[5] Further information about referrals from a maintained school to a local authority, where the child is registered at more than one setting, can be found in the ALN Code chapter 12, page 101, and in chapter 14, pages 122 to 123, where a child is looked after.

[6] ALN code, chapter 8, page 72 onwards.

[7] Where a child, or their parent, requests they move to the ALN system or requests an IDP but do not specifically request an IDP notice, it could be inferred the child, or their parent, has requested an IDP notice.

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[8] Because the child's name is removed from the register at the end of a transition year, the child does not automatically move to the new system.

[9] Further information about referrals from a maintained school to a local authority, where the child is registered at more than one setting, can be found in the ALN Code, chapter 12, page 101, and in chapter 14, pages 122 to 123, where a child is looked after.

[10] This will only apply at the end of the first year of implementation because in the second and third year of implementation, children in Year 6 will have moved to the ALN system prior to starting Year 6.

[11] See paragraphs 7.7 to 7.10 for the arrangements where a child does not join a new school or PRU following a transition or school closure.

[12] This will only apply at the end of the first year of implementation because in the second and third year of implementation, children in Year 6 will have moved to the ALN system prior to starting Year 6.

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