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

A practitioner guide to the implementation of the Act from 1 September 2021 to August 2025.

First published: 16 June 2022

Last updated: 26 February 2024

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Enquiries about this document should be directed to ALNimplementation@gov.wales.

Introduction

1.1 This guide has been produced to support local authorities, governing bodies of maintained schools, management committees of pupil referral units (PRUs), school and PRU teaching staff and additional learning needs coordinators (ALNCos) to understand the arrangements for the implementation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALN Act).

1.2 This guide sets out the arrangements for moving children from the special educational needs (SEN) system to the additional learning needs (ALN) system. It focuses on the process and timescales for moving the following groups of children to the ALN system:

- children who are newly identified as having, or newly thought to have ALN
- children who are registered at a maintained school, have special education provision (SEP) via school action/school action plus and who were not looked after or not registered at more than one setting on 1 January 2022 or on 1 September 2022
- children who are registered at a maintained school, have SEP via school action/school action plus and who are looked after or are registered at more than one setting on 1 January 2022 or on 1 September 2022
- children with statements on 1 September 2022
- children who are in a statement pipeline. A statement pipeline is where a child has a statement but there is an ongoing appeal in relation to its content, the time within which an appeal could be brought has not ended or the local authority is trying to cease to maintain the statement
- children who are in a pre-statement pipeline on 1 September 2022. A pre-statement pipeline is where a child does not have a statement but is seeking

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to get a statement

- children who on 1 September 2022 are not registered at a maintained school or PRU who have SEP via school action/school action plus and who are not looked after or are not educated other than at school
- children who on 1 September 2022 are not registered at a maintained school or PRU, who have SEP via school action/school action plus and who are looked after or are educated other than at school
- children with an education, health and care plan (EHC plan) or in an education, health and care plan pipeline on 1 September 2022

1.3 This guide sets out the arrangements for these groups moving to the ALN system and, for most of the groups, the actions local authorities, schools and PRUs must take to move the children in those groups.

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 about making decisions about whether a child has ALN and preparing an individual development plan (IDP).

1.5 A technical guide relating to the second, third and fourth years of implementation will be published later in the year.

1.6 This guide is divided into sections. The sections provide information on how specific groups of children are to be moved from the SEN system to the ALN system.

Background

2.1 Implementation of the ALN system set out in the ALN Act for children will be phased in over the school years 2021 to 2022, 2022 to 2023, 2023 to 2024 and 2024 to 2025.

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2.2 On 1 September 2021, the ALN system commenced for all children up to, and including, Year 10 who were newly thought to have, or were newly identified as having, ALN on or after 1 September 2021. This means the ALN system applies to all children who are newly identified as having, or newly thought to have ALN, regardless of how their education is delivered. It also commenced for children up to, and including, Year 11 who were detained.

2.3 From 1 January 2022 the ALN system commenced for children up to, and including, Year 10 who had SEP via early years action/early years action plus or school action/school action plus and attended a local authority nursery, local authority school or PRU on 1 January 2022. This was a phased implementation with children who were in Nursery Years 1 or 2, Year 1, Year 3, Year 5, Year 7 and Year 10 being the first to be moved on to the ALN system. The detail on how these children are moved is set out in later sections.

2.4 Following the making of an Amendment Order, the time available to move children who were due to move to the ALN system between January 2022 and August 2022 was extended, so that they may be moved during the 2022 to 2023 school year.

2.5 The ALN Act also came into force, on 1 January 2022, for some children who were 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 came into force for this group of children regardless of how their education was delivered.

2.6 It is likely that children who have SEP via early years action/early years action plus or school action/school action plus will have ALN.

2.7 On occasion, a child who had SEN will not have ALN because their needs have changed, and they do not need additional learning provision (ALP) to help them learn.

2.8 The detail on the specific groups of children who are to be moved to the ALN system in the second, third and fourth year of implementation are set out in later sections.

Managing ALN implementation alongside the SEN system

3.1 To ensure children continue to receive the support they need during the implementation period, the ALN system will operate in parallel to the SEN system. This will gradually be phased out during the implementation period. Until a child moves to the ALN system the SEN legislation remains in force, which means schools, PRUs and local authorities must continue to deliver the SEP set out in school action/school action plus plans or statements.

3.2 Although the SEN legislation remains in force, and SEP must continue to be provided until a child moves to the ALN system, the provisions of Part 4 of the Education Act 1996 that remain in force are limited. This means that from 1 January 2022 it will not be possible to request an SEN assessment.

3.3 Local authorities and maintained settings must continue to comply with the Education Act 1996 and regulations made under it, while the act and the regulations still apply to the child, and with the arrangements set out in the 'Special Educational Needs Code of Practice for Wales'.

3.4 From 1 September 2022 children in Year 11 will no longer be able to access a section 140 assessment under the Learning and Skills Act 2000.

Implementation from 1 September 2022

4.1 Children up to, and including, Year 11 in the 2022 to 2023 school year (and who are not referred to in paragraphs 2.2, 2.3 and 2.5) will move from the SEN system to the ALN system between 1 September 2022 and 31 August 2025. How and when they will move is explained in later sections.

4.2 Most groups of children are moved to the ALN system by the giving of an IDP notice or a No IDP notice to the child and the child's parent. Who gives the IDP notice or No IDP notice depends on the child, for example a local authority will give the notice if the child is looked after or dual registered. In most circumstances, the governing body of the school at which the child is a registered learner will give the notice. The school year in which the notice must be given is linked to the child's year group.

4.3 Some children, for example children with SEP who attend an independent school, will move automatically to the ALN system on 1 September 2022 without the need for an IDP notice.

4.4 Children, or their parents, can request that the child moves to the ALN system earlier than planned by requesting an IDP notice.

4.5 Local authorities and schools do not have to give a notice or a copy of an IDP to a child where the child does not have capacity to understand the information in the notice or IDP.

4.6 The transitional arrangements that are in place to implement the ALN system are not identical to the arrangements set out in the ALN Act and the ALN Code. An example of this is the timescales for deciding if a child has ALN following a request, and the timescales for preparing an IDP.

4.7 Providing families with information about arrangements for transferring from

the SEN system to the ALN system during the implementation period is important. Schools, PRUs and/or local authorities should send specific information to children 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, PRU or local authority 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 with the decision made by a school or PRU or local authority set out in the IDP notice or No IDP notice

4.8 Person-centred practice (PCP) is integral to the ALN system, including the process of developing IDPs.

Arrangements for children who are registered at a maintained school or PRU, have SEP via school action/school action plus and who are not a looked after child or not registered at more than one setting on 1 January 2022

5.1 Children who are registered at a maintained school or PRU and have SEP via school action/school action plus and who are not looked after or are not registered at more than one setting on 1 January 2022 will move to the ALN system as follows:

- school year 2021 to 2022: Nursery (N1, N2), Year 1, Year 3, Year 5, Year 7

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and Year 10

- school year 2022 to 2023: Nursery, Reception, Year 2, Year 4, Year 6, Year 8, Year 10 and Year 11
- school year 2023 to 2024: Year 6 and Year 10
- school years 2023 to 2024 and 2024 to 2025: All remaining children not already moved, those in Nursery, Year 2, Year 4 and Year 8 in the school year 2023 to 2024

5.2 The arrangements in this section do not apply to children who are in a pre-statement pipeline.

5.3 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 this group from the SEN system to the ALN system. These instances are where:

- a child automatically moves to the ALN system due to a change of circumstance
- a child automatically moves to the ALN system at the end of a school year

5.4 Unlike where a child is looked after by a local authority in Wales, if the 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.

5.5 From 1 January 2022 it will not be possible to request an SEN assessment for children in this group. This is to prevent children getting into a pipeline case during the implementation period.

5.6 Deciding whether a child in this group has ALN and issuing a notice is the process for moving children from the SEN system to the ALN system. Having decided whether a child has ALN, the school or PRU must issue an IDP notice or a No IDP notice to the child and their parents.

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5.7 An IDP notice is issued where the school or PRU considers that the child has ALN. The IDP notice is given to a child and the child's parent which confirms the school or PRU has decided that the child does have ALN for the purposes of chapter 2 of Part 2 of the ALN Act.

5.8 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 the 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.

5.9 The ALN system applies to the child from the date of the notice and the old law ceases to apply.

5.10 Where a child, or their parent, is unhappy with the decision made by the school or PRU about whether the child has ALN, it is expected this would normally be resolved directly with the school or PRU or by recourse to the local authority disagreement arrangements. Alternatively, or additionally, where the disagreement is not resolved, children and their parents may request the responsible local authority reconsiders the decision made by the school or PRU.

5.11 Where an IDP notice has been given and the school or PRU considers the child has ALN:

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

a school or PRU can refer the child's case to the local authority.

5.12 The school or PRU must issue an IDP within 35 school days of the date of the IDP notice other than where:

- there are exceptional circumstances

- the school or PRU considers the child has ALN:
 - that may call for ALP it would not be reasonable for the school or PRU to secure
 - the extent or nature of which it cannot adequately determine
 - for which it cannot adequately determine ALP
- 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
- a local authority in England maintains an education, health and care plan for the child

5.13 When preparing the IDP, the school or PRU must have regard to the SEP that was provided to the child.

5.14 Where a school or PRU has not given an IDP notice or a No IDP notice to a child and their parent who are due to receive a notice in 2022 to 2023 by 30 August 2023, the child will automatically move to the ALN system on 31 August 2023. This means the old law will cease to apply on 31 August 2023 and the new law will apply on that date. The duties provided for in the ALN Act and subordinate legislation, including the ALN Code, apply.

5.15 Where a school or PRU has not given an IDP notice or a No IDP notice to a child and their parent who are due to receive a notice in 2024 to 2025 by 30 August 2025, the child will automatically move to the ALN system on 31 August 2025. This means the old law will cease to apply on 31 August 2025 and the new law will apply on that date. The duties provided for in the ALN act and subordinate legislation, including the ALN code, apply.

5.16 Children, 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 earlier than planned. Children, or their parents, can do this by asking the school or the PRU to issue an IDP notice. The request for an IDP notice can be made either verbally or in writing.

5.17 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. 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 as set out in 5.12.

5.18 In certain circumstances, the local authority can give an ALN notice. 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 enables local authorities to move children in this group from the SEN to the ALN system at any time. It is not limited to being issued in a particular year of implementation. It is not expected local authorities will use this power on a frequent basis, as it can only be exercised in exceptional circumstances (unless a parent requests an ALN notice is given). A child, who falls into this group and who is no longer a registered learner at a maintained school and who has not already moved to the ALN system, or the child's parent, may request the local authority gives an ALN notice. Where a child or their parent requests the local authority gives an ALN notice, the local authority must give an ALN notice within 10 working days of the request.

5.19 Children in this group, who have not already moved to the ALN system, will automatically move from the SEN system to the ALN system where they have a change of circumstance:

- they ceased to be a learner at the maintained school or PRU at which the child was a registered learner on 1 January 2022, other than where the child ceases to be a registered learner due to making an ordinary transition or following a school or PRU closure
- they were registered at a maintained school or PRU on 1 January 2022 and, at some point after 1 January 2022, they also became a registered learner or an enrolled student at another institution (that is, registered at more than one setting) and for whom a local authority in Wales is responsible for the child
- 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

Arrangements for children who are registered at a maintained school or PRU, have SEP via school action/school action plus and who are not a looked after child or not registered at more than one setting on 1 September 2022

6.1 The majority of those who fall into this group on 1 September 2022 are likely to be those who were registered at a maintained school or PRU, had SEP via school action/school action plus and were in a pipeline on 1 January 2022, but the pipeline has ended by 1 September 2022.

6.2 A pipeline case refers to instances where a child is either engaged with the SEN statement process provided for in the Education Act 1996, or with a process relating to education, health and care plans provided for in the Children and Families Act 2014.

6.3 This group also includes children who had a statement on 1 January 2022, but whose statement has ceased to be maintained and are at a maintained school or PRU and receiving SEP via school action/school action plus on 1 September 2022.

6.4 Children who are registered at a maintained school or PRU, and who were in a pipeline on 1 January 2022 which ended before 1 September 2022, who have SEP via school action/school action plus on 1 September 2022 and who are not looked after or registered at more than one setting will move from the SEN system to the ALN system. They will move from the SEN system to the ALN system through an IDP notice or a No IDP notice (refer to 5.14 and 5.15 for

further information on IDP notices) issued by a school or PRU where they fall within the following years:

- school year 2022 to 2023: Nursery, Reception, Year 2, Year 4, Year 6, Year 8, Year 10 and Year 11
- school year 2023 to 2024: Year 6 and Year 10
- school years 2023 to 2024 and 2024 to 2025: All remaining children not already moved, those in Nursery, Year 2, Year 4 and Year 8 in the school year 2023 to 2024

6.5 The school or PRU must issue an IDP within 35 school days of the date of the notice except where:

- there are exceptional circumstances
- the school or PRU considers the child has ALN:
 - that may call for ALP it would not be reasonable for the school or PRU to secure
 - the extent or nature of which it cannot adequately determine
 - for which it cannot adequately determine ALP
- 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
- a local authority in England maintains an education, health and care plan for the child

6.6 Children, 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 earlier than planned. Children, or their parents, can do this by asking the school or the PRU to issue an IDP notice. The request for an IDP notice can be made either verbally or in writing.

6.7 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. 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.

6.8 In exceptional circumstances, the local authority can give an ALN notice. An ALN notice enables local authorities to move children in this group from the SEN to the ALN system at any time (refer to 5.18 for further information on ALN notices).

6.9 A child in this group will move automatically to the ALN system if the following changes of circumstances apply:

- they ceased to be a registered learner at the maintained school or PRU at which the child was a registered learner on 1 September 2022, other than where the child ceases to be a registered learner due to making an ordinary transition or due to a school/PRU closure
- at some point after 1 September 2022, they also became a registered learner or an enrolled student at another institution (that is, registered at more than one setting) and a local authority in Wales is responsible for the child
- at some point after 1 September 2022, became looked after by a local authority in Wales

6.10 Where a child in this group moves into a year to whom a notice should be given during the 2022 to 2023 school year after 1 September 2022, the school or PRU must either give an IDP notice or a No IDP notice to the child and the child's parents during the 2023 to 2024 school year. This is the position unless the child or their parents request the school or PRU gives an IDP notice or that the local authority gives an ALN notice.

Arrangements for children who attend a maintained school or PRU, have SEP via school action/school action plus and who are looked

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after or are registered at more than one setting on 1 January 2022

7.1 Local authorities will move children who attend a maintained school or PRU and have SEP via school action/school action plus and who are looked after or are registered or enrolled at more than one setting on 1 January 2022 to the ALN system as follows:

- school year 2021 to 2022: Nursery (N1, N2), Year 1, Year 3, Year 5, Year 7 and Year 10
- school year 2022 to 2023: Nursery, Reception, Year 2, Year 4, Year 6, Year 8, Year 10 and Year 11
- school year 2023 to 2024: Year 6 and Year 10
- school years 2023 to 2024 and 2024 to 2025: All remaining children not already moved, those in Nursery, Year 2, Year 4 and Year 8 in the school year 2023 to 2024

7.2 Local authorities will move children to the ALN system by giving an IDP notice or a No IDP notice.

7.3 From 1 January 2022 it will not be possible to request an SEN assessment for children in this group. This is to prevent children getting into a pipeline case during the implementation period.

7.4 Deciding whether a child in this group has ALN and issuing a notice is the process for moving children from the SEN system to the ALN system. Having decided whether a child has ALN, the local authority must issue an IDP notice or a No IDP notice to the child and their parents.

7.5 An IDP notice is issued where the local authority considers that the child has ALN. The IDP notice is given to a child and the child's parent which confirms the local authority has decided that the child does have ALN for the purposes of

chapter 2 of Part 2 of the ALN Act.

7.6 A No IDP notice is issued where the local authority does not consider the child has ALN. The notice is given to a child and the child's parent which 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.

7.7 The ALN system applies to the child from the date of the notice and the old law ceases to apply.

7.8 Where a child, or their parent, is unhappy with the decision made by the local authority about whether the child has ALN, it is expected this would normally be resolved directly with the local authority or by recourse to the local authority disagreement arrangements. Alternatively, or additionally, where the disagreement is not resolved, a child, or their parent, may appeal to the Educational Tribunal for Wales against the decision.

7.9 Where a local authority has decided a child has ALN, the local authority must give the child, and the child's parent, an IDP notice and prepare an IDP within 12 weeks of issuing the IDP notice unless there are exceptional circumstances. Where there are exceptional circumstances the IDP must be issued as soon as is reasonably practicable. The notice means 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.

7.10 When preparing an IDP, the local authority must have regard to the SEP that was provided to the child.

7.11 Where a local authority has not given an IDP notice or a No IDP notice to a child and their parent who are due to receive a notice in 2022 to 2023 by 30 August 2023, the child will automatically move to the ALN system on 31 August 2023. This means the old law will cease to apply on 31 August 2023 and the new law will apply on that date. The duties provided for in the ALN Act and

subordinate legislation, including the ALN Code, apply.

7.12 Where a local authority has not given an IDP notice or a No IDP notice to a child and their parent who are due to receive a notice in 2024 to 2025 by 30 August 2025, the child will automatically move to the ALN system on 31 August 2025. This means the old law will cease to apply on 31 August 2025 and the new law will apply on that date. The duties provided for in the ALN Act and subordinate legislation, including the ALN Code, apply.

7.13 Children, or their parents, have a right to make a request, at any time, to the local authority that they move to the ALN system earlier than planned. Children, or their parents, can do this by asking the local authority to issue an IDP notice. The request for an IDP notice can be made either verbally or in writing.

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

7.15 In certain circumstances, the local authority can give an ALN notice. An ALN notice enables local authorities to move children in this group from the SEN to the ALN system at any time. It is not expected local authorities will use this power on a frequent basis as it can only be exercised in exceptional circumstances.

7.16 Children in this group 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

7.17 Where a child ceases to be looked after, the local authority should inform the school or PRU that the child has ceased to be looked after, and therefore has automatically moved to the new law, and that the duties placed on the school or PRU in the ALN Act and subordinate legislation, including the ALN Code apply.

7.18 Where a child who was registered at more than one setting becomes sole registered at a maintained school or PRU, the local authority should inform the school or PRU that the child has ceased to be registered at more than one setting, and therefore has automatically moved to the new law, and that the duties placed on the school or PRU in the ALN Act and subordinate legislation, including the ALN Code apply.

7.19 Where children in this group move into a year group to whom a notice should be given during 2022 to 2023, the local authority must either give an IDP notice or a No IDP notice to the child, and the child's parents, during the 2023 to 2024 school year. The ALN system applies from the date of the notice, and the SEN system ceases to apply. This is the position unless the child or their parents request the school or PRU gives an IDP notice, or that the appropriate local authority gives an ALN notice.

Arrangements for children who are registered at a maintained school or PRU, have SEP via school action/school action plus and who are looked after or are registered at more than one setting and were in a pipeline on 1 September 2022

8.1 Local authorities must move children in this group from the SEN system to the ALN system via an IDP notice or a No IDP notice where they fall within the following years:

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- school year 2022 to 2023: Nursery, Reception, Year 2, Year 4, Year 6, Year 8, Year 10 and Year 11
- school year 2023 to 2024: Year 6 and Year 10
- school years 2023 to 2024 and 2024 to 2025: All remaining children not already moved, those in Nursery, Year 2, Year 4 and Year 8 in the school year 2023 to 2024

8.2 Local authorities will move children to the ALN system by giving an IDP notice or a No IDP notice.

8.3 Deciding whether a child has ALN and issuing a notice is the process for moving children from the SEN system to the ALN system. Having decided whether a child has ALN, the local authority must issue an IDP notice or a No IDP notice to the child and their parents (for further information on IDP notices see 7.5 and 7.6).

8.4 The ALN system applies to the child from the date of the notice and the old law ceases to apply.

8.5 Where a child, or their parent, is unhappy with the decision made by the local authority, it is expected this would normally be resolved directly with the local authority or by recourse to the local authority disagreement arrangements. Alternatively, or additionally, where the disagreement is not resolved, a child, or their parent, may appeal to the Educational Tribunal for Wales against the decision.

8.6 Where a local authority has decided a child has ALN, the local authority must give the child, and the child's parent, an IDP notice and prepare an IDP within 12 weeks of issuing the IDP notice unless there are exceptional circumstances. Where there are exceptional circumstances the IDP must be issued as soon as is reasonably practicable. The notice means 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.

8.7 When preparing an IDP, the local authority must have regard to the SEP provided to the child.

8.8 Children, or their parents, have a right to make a request, at any time, to the local authority that they move to the ALN system earlier than planned. Children, or their parents, can do this by asking the local authority to issue an IDP notice. The request for an IDP notice can be made either verbally or in writing.

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

8.10 In exceptional circumstances only, the local authority may give an ALN notice. 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 subordinate legislation, including the ALN Code, apply from that date.

8.11 Where a local authority does not have the opportunity to provide a child with an IDP notice or a No IDP notice to a child and their parent by the end of the relevant school year, the child will automatically move to the ALN system at the end of the school year (31 August). This provision means that at the end of the school year, the ALN Act and associated subordinate legislation, including the ALN Code applies to the child.

8.12 A child in this group who has not already moved to the ALN system, will move automatically to the ALN system if the following changes of circumstances apply:

- was not looked after and registered at more than one setting on 1 September 2022 and subsequently ceased to be registered at more than

one setting

- was looked after on 1 September 2022 and subsequently ceases to be a looked after child

8.13 Where children in this group move into a year group to whom a notice should be given during 2022 to 2023 after 1 January 2022, the local authority must either give an IDP notice or a No IDP notice to the child, and the child's parents, during the 2023 to 2024 school year. The ALN system applies from the date of the notice, and the SEN system ceases to apply. This is the position unless the child or their parents request the school or PRU gives an IDP notice, or that the appropriate local authority gives an ALN notice.

Arrangements for children with statements on 1 September 2022

9.1 Children up to, and including, Year 11 with statements of SEN on 1 September 2022, will be gradually transferred over to the new ALN system from 1 September 2022. Moving to the new system will take place over two years as follows:

- school year 2022 to 2023: those under compulsory school age, Reception, Year 6, Year 10 and Year 11
- school year 2023 to 2024: Year 6 and Year 10
- school years 2023 to 2024 and 2024 to 2025: All remaining children not already moved, for example those who are in Year 2, Year 3, Year 4, Year 5, Year 8 and Year 9, in the school year 2023 to 2024

9.2 To move children in this group from the SEN system to the ALN system, a local authority will give an IDP notice or a No IDP notice. Until this happens, the local authority will remain under a duty to maintain the statement of SEN and arrange the SEP set out in the statement of SEN.

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9.3 The process of moving children onto the new system will be managed by the local authority throughout the school year (1 September to 31 August) where an IDP notice or a No IDP notice is given.

9.4 Having decided whether a child has ALN, the local authority must issue an IDP notice or a No IDP notice to the child and their parents.

9.5 An IDP notice is issued where the local authority considers that the child has ALN. The IDP notice is given to a child and a child's parent which confirms the local authority has decided that the child does have ALN for the purposes of chapter 2 of Part 2 of the ALN Act.

9.6 In the most exceptional of circumstances a No IDP notice is issued where the local authority does not consider the child has ALN. The notice is given to a child and a child's parent which 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.

9.7 The ALN system applies to the child from the date of the notice and the old law ceases to apply.

9.8 A local authority should not give an IDP notice or a No IDP notice if there is an appeal in progress under the Education Act 1996 against any of the matters relating to a statement of SEN (i.e. a pipeline).

9.9 The local authority can give an ALN notice in exceptional circumstances (other than when there is an appeal ongoing in relation to the child).

9.10 Where a local authority has not given an IDP notice or a No IDP notice to a child and their parent who are due to receive a notice in 2022 to 2023 by 30 August 2023, the child will automatically move to the ALN system on 31 August 2023, unless the child is in a statement pipeline on that date. This means the old law will cease to apply on 31 August 2023, and the new law will apply on that date. The duties provided for in the ALN act and subordinate legislation,

including the ALN code, apply.

9.11 Where a local authority has not given an IDP notice or a No IDP notice to a child and their parent who are due to receive a notice in 2024 to 2025 by 30 August 2025, the child will automatically move to the ALN system on 31 August 2025 unless the child is in a statement pipeline on that date. This means the old law will cease to apply on 31 August 2025 and the new law will apply on that date. The duties provided for in the ALN Act and subordinate legislation, including the ALN Code, apply.

9.12 Children or their parents can request a move to the ALN system earlier than they are otherwise due to move by requesting an IDP notice. The request for an IDP notice can be made either verbally or in writing.

9.13 The local authority must give an IDP notice or a No IDP notice to the child and their parent as soon as is reasonably practicable after the notice has been requested.

9.14 In practice, local authorities could, for example, issue an IDP notice prior to the date of the statement annual review and could hold the IDP meeting instead of the annual review.

9.15 Where the local authority considers the child has ALN and gives an IDP notice, the local authority must prepare an IDP within 12 weeks of the date of the notice, other than where exceptional circumstances apply.

9.16 Once the child has moved to the ALN system, local authorities will become responsible for arranging and funding placements for a child in Year 11 who requires a specialist college placement from September 2023. To facilitate effective transition planning for children in Year 11 moving into post-16 education, particularly those who may require a specialist placement at, for example, an independent special post-16 institution (ISPIs), local authorities should move children in Year 11 from the SEN system to the ALN system during

the autumn term of 2022 to 2023.

9.17 Where a child in Year 11 is involved in a pipeline case, it will not be possible for the local authority to move the child from the SEN system to the ALN system until the pipeline has ended. In such cases the local authority should undertake preparatory work, so that when the pipeline has ended, the local authority will be able to swiftly issue the IDP or No IDP notice and, where appropriate, the IDP.

9.18 Children who have not already moved to the ALN system will automatically move from the SEN system to the ALN system where:

- a local authority ceases to maintain their statement
- a child moves from the area of the local authority that was maintaining their statement on 1 September 2022

9.19 Where a local authority ceases to maintain a statement for a child who had a statement on 1 September 2022, the child will automatically move to the ALN system on the date the local authority ceases to maintain the statement. The ALN legislation, including the ALN Code, applies to the child from that date.

9.20 Where a child moves into a year group who is due to be moved during the 2022 to 2023 school year after 1 September 2022, the local authority must either give an IDP notice or a No IDP notice to the child, and the child's parents, during the 2023 to 2024 school year. The ALN legislation, including the ALN code, applies from the date of the notice, and the SEN system ceases to apply. This is the position unless the child or their parents request the local authority gives an IDP notice, or that the local authority gives an ALN notice.

Arrangements for children up to, and including, Year 11 who are or were involved in a statement

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pipeline case

10.1 A statement pipeline is where a child has a statement but there is an ongoing appeal in relation to its content, the time within which an appeal could be brought has not ended, or the local authority is trying to cease to maintain the statement.

10.2 Where a child was not issued with an IDP notice or a No IDP notice in the school year the local authority was due to move them because they were involved in a statement pipeline and the child has not moved to the ALN system, the local authority must give the child, and their parent, an IDP notice or No IDP notice as soon as is reasonably practicable after:

- the period within which an appeal could be made has expired, if no appeal has been made
- where an appeal has been made, the appeal has been finally determined.

10.3 An IDP notice is issued where the local authority considers that the child has ALN. The IDP notice is given to a child and a child's parent which confirms the local authority has decided that the child does have ALN for the purposes of chapter 2 of Part 2 of the ALN Act.

10.4 In the most exceptional of circumstances, a No IDP notice may be issued where the local authority does not consider the child has ALN. The notice is given to a child and a child's parent which 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.

10.5 The ALN system applies to the child from the date of the notice and the old law ceases to apply.

10.6 An IDP must be given within 12 weeks of the IDP notice unless:

- the local authority ceases to be responsible for the child
- a looked after child ceases to be in the area of a local authority in Wales
- the local authority decides that the child no longer has ALN
- there are exceptional circumstances

10.7 When preparing an IDP, the local authority must have regard to the SEP provided to the child.

10.8 Children, or their parents, have a right to make a request, at any time, to the local authority that the child moves to the ALN system earlier than planned by requesting an IDP notice. The request for an IDP notice can be made either verbally or in writing.

10.9 The local authority must give an IDP notice or a No IDP notice to the child and their parent as soon as is reasonably practicable after the notice has been requested.

10.10 Where the local authority considers the child has ALN and gives an IDP notice, the local authority must prepare an IDP within 12 weeks of the date of the notice, other than where exceptional circumstances apply.

10.11 Where a request to move to the ALN system is made and there is no order for the local authority to comply with following an ongoing appeal being finally determined, it is expected the local authority will issue an IDP notice within 15 working days.

10.12 The right to request does not apply where:

- an appeal is ongoing in relation to a child
- the child has automatically moved to the ALN system due to, for example, a change of circumstance

10.13 The local authority can give an ALN notice in exceptional circumstances (other than when there is an appeal ongoing in relation to the child).

10.14 Where a local authority does not have the opportunity to provide a child in the school year that they were due to move (who has not already moved to the ALN system) and their parent with an IDP notice or a No IDP notice, the child will automatically move to the ALN system at the end of the school year (31 August).

10.15 However, an automatic move at the end of the year does not apply where an appeal is ongoing on 31 August or where the local authority has been ordered to undertake an action because of an appeal being finally determined and the action has not been taken by 31 August.

10.16 Where the local authority is ordered to take an action, and that action has not been taken by 31 August in the school year that they were due to move, a child will automatically move from the SEN system to the ALN system on the day after the local authority undertakes the action ordered (or all the actions ordered if there is more than one action).

10.17 Where a child is involved in an ongoing pipeline on 31 August 2025, the child will transfer to the ALN system:

- the day after the end of the period within which an appeal could be made has expired, where no appeal has been made
- the day after the appeal has been finally determined, other than where the local authority is ordered to undertake an action
- the day after the local authority undertakes the action ordered as a result the ongoing appeal being finally determined (or all the actions ordered if there is more than one action)

10.18 Children who have not already moved to the ALN system will automatically move from the SEN system to the ALN system where:

- a local authority ceases to maintain their statement
- a child moves from the area of the local authority that was maintaining their

statement on 1 September 2022

10.19 Where a local authority ceases to maintain a statement for a child who had a statement on 1 September 2022, the child will automatically move to the ALN system on the date the local authority ceases to maintain the statement. The ALN legislation, including the ALN code, applies to the child from that date.

10.20 Where a child moves into a year group who is due to be moved during the 2022 to 2023 school year after 1 September 2022, the local authority must either give an IDP notice or a No IDP notice to the child and the child's parents during the 2023 to 2024 school year. The ALN legislation, including the ALN code, applies from the date of the notice, and the SEN system ceases to apply. This is the position unless the child or their parents request the local authority gives an IDP notice or that the local authority gives an ALN notice.

Arrangements for children up to, and including, Year 11 who are in a pre-statement pipeline on 1 September 2022

11.1 A pre-statement pipeline is where a child or young person does not have a statement but is seeking to get a statement.

11.2 Local authorities must move children who are involved in a pre-statement pipeline by giving them an IDP notice or a No IDP notice as soon as is reasonably practicable after 1 September 2022, unless an appeal is ongoing under the Education Act 1996.

11.3 Where an appeal made to the Tribunal is ongoing on 1 September 2022, the appropriate local authority should either give an IDP notice or a No IDP notice to the child, and their parents, as soon as is reasonably practicable after that appeal is finally determined.

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11.4 An IDP must be issued within 12 weeks of the IDP notice unless:

- the child is no longer in the area of the local authority
- the local authority ceases to be responsible for the child
- a looked after child ceases to be in the area of the local authority
- the local authority decides that the child no longer has ALN
- there are exceptional circumstances

11.5 The local authority must have regard to any SEP provided to the child immediately before moving to the ALN system.

11.6 Children, or their parents, can request they move to the ALN system earlier than planned by requesting an IDP notice.

11.7 The local authority must give an IDP notice or a No IDP notice to the child and their parent as soon as is reasonably practicable after the notice has been requested.

11.8 Where a request to move to the ALN system is made and there is no order for the local authority to comply with an ongoing appeal, it is expected the local authority will issue an IDP notice within 15 working days.

11.9 The right to request does not apply where:

- a pre-statement pipeline is ongoing in relation to a child
- the child has automatically moved to the ALN system due to, for example, a change of circumstance

11.10 Where a local authority has not had the opportunity to move a child to the ALN system by 30 August 2024, a child will move automatically to the ALN system on 31 August unless:

- the child is involved in an ongoing appeal on 30 August 2024
- the local authority has been ordered to undertake an action because of an

ongoing appeal and the action has not been taken by 30 August 2024

11.11 Where the child is involved in an ongoing appeal on 30 August 2024 the child will move to the ALN system on:

- the day after the day on which the appeal is finally determined
- if the local authority is ordered to act as a result of the ongoing appeal being finally determined, on the day after the local authority takes the action (or all of the actions if there is more than one action)

11.12 Where the local authority has been ordered to undertake an action as a result of an ongoing appeal and the action has not been taken by 30 August 2024, the child will move to the ALN system on the day after the local authority undertakes the action (or all of the actions if there is more than one action).

11.13 This means that on the date the child moves to the ALN system the ALN legislation, including the ALN Code, will apply to the child and Part 4 of the Education Act 1996 will cease to apply to the child.

11.14 Children who have not already moved to the ALN system will automatically move from the SEN system to the ALN system where a child moves from the area of the local authority that the child was residing on 1 September 2022.

11.15 Where a child moves from the area of the local authority that the child was residing on 1 September 2022, the child will automatically move to the ALN system on the date the child moves, and the ALN Act and subordinate legislation, including the ALN Code, applies to the child.

Arrangements for children who have SEP via school action/school action plus and who did not attend a maintained school or PRU on 1

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12.1 Depending on their circumstances, children up to, and including, Year 11 who had SEP via school action/school action plus and who were not registered at a maintained school or PRU on 1 September 2022, will move from the SEN system to the ALN system in one of two ways:

- automatically: children who, on 1 September 2022, are not registered at a maintained school or PRU and who are not looked after or not a learner who is educated other than at school (EOTAS), will automatically move to the ALN system on 1 September 2022
- by the local authority issuing an IDP notice or a No IDP notice: children who, on 1 September 2022, are not registered at a maintained school or PRU and are looked after or an EOTAS learner, will be moved to the ALN system depending on their year group (or what would be their year group if they were a registered learner at a maintained school)

12.2 How children in this group move from the SEN system to the ALN system is discussed as follows:

Children who are not looked after or not an EOTAS learner

12.3 Children up to, and including, Year 11 who had SEP via school action/school action plus and who were not registered at a maintained school or PRU on 1 September 2022 (for example, they attend an independent school), and who are not looked after children or EOTAS learners, will automatically move to the ALN system on 1 September 2022. From 1 September 2022 the ALN Act and associated subordinate legislation, including the ALN Code, applies to the child.

Children who are EOTAS learners or looked after

12.4 Local authorities must move children up to, and including, Year 11 who had SEP via school action/school action plus and who were not registered at a maintained school or PRU on 1 September 2022 and who are looked after children or EOTAS learners, to the ALN system by giving an IDP notice or a No IDP notice where they fall into one of the following:

- school year 2022 to 2023: Nursery, Reception, Year 2, Year 4, Year 6, Year 8, Year 10 and Year 11 (or would be in any of those years if they were a registered learner at a maintained school)
- school year 2023 to 2024: Year 6 and Year 10
- school years 2023 to 2024 and 2024 to 2025: All remaining children not already moved, those in Nursery, Year 2, Year 4 and Year 8 in the school year 2023 to 2024

12.5 Local authorities must issue an IDP within 12 weeks of the IDP notice being issued unless:

- there are exceptional circumstances
- the local authority ceases to be responsible for the child
- a looked after child ceases to be in the area of a local authority in Wales
- the local authority decides that the child no longer has ALN

12.6 Where there are exceptional circumstances, the IDP must be given as soon as is reasonably practicable.

12.7 When preparing an IDP, the local authority must have regard to the SEP provided to the child.

12.8 Children, or their parents, have a right to make a request, at any time, to the local authority that the child moves to the ALN system earlier than planned.

Children, or their parents, can do this by asking the local authority to issue an IDP notice. The request for an IDP notice can be made either verbally or in writing. The local authority must give an IDP notice or a No IDP notice within 15 working days of the request.

12.9 To move any child from the SEN system to the ALN system in exceptional circumstances, the local authority can give an ALN notice.

12.10 Where a local authority does not have the opportunity to provide a child (who has not already moved to the ALN system) and their parent with a notice, by the end of the relevant school year that they were due to be given a notice, the child will automatically move to the ALN system at the end of the relevant school year (31 August). The provision means that at the end of the school year the ALN Act, and subordinate legislation including the ALN Code, will apply to the child and Part 4 of the Education Act 1996 will cease to apply to the child at the end of the school year.

12.11 Children who are EOTAS learners or looked after and who have not already moved to the ALN system will automatically move from the SEN system to the ALN system where they:

- ceased to be a looked after child
- ceased to be an EOTAS learner where the child is not looked after

12.12 On the date of either of these changes, the ALN Act and associated subordinate legislation, including the ALN code, apply.

12.13 Where children in this group move into a year group due to be given a notice during the 2022 to 2023 school year after 1 September 2022, the local authority must either give an IDP notice or a No IDP notice to the child and the child's parents during the 2023 to 2024 school year. The ALN system applies from the date of the notice, and the SEN system ceases to apply. This is the position unless the child or their parents request an IDP notice or that the local

authority gives an ALN notice.

Arrangements for children who have an education, health and care plan or are in an education, health and care plan pipeline on 1 September 2022

13.1 Where a child has an education, health and care plan (EHC plan) on 1 September 2022, the child will move to the ALN system automatically on 1 September 2022. This means from this date the ALN Act, and subordinate legislation including the ALN Code applies, and the Education Act 1996 will cease to apply.

13.2 Where a child is in an EHC plan pipeline on 1 September 2022, the child will move to the ALN system automatically on 1 September 2022.

13.3 Where a child attends a maintained school or PRU in Wales and has an EHC plan, the school or PRU's duty to decide whether a child has ALN does not apply.

13.4 Where a child attends a maintained school or PRU in Wales and is in an EHC plan pipeline on 1 September 2022, the school or PRU's duty to decide whether a child has ALN (and prepare an IDP if appropriate) will apply once it is brought to the attention, or otherwise appears to the school that the child may have ALN.

13.5 Where a child does not attend a maintained school, the local authority in Wales's duty to decide whether a child has ALN (and prepare an IDP if appropriate) will apply where they are responsible for the child and where it is brought to the attention, or otherwise appears to the authority that the child may

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have ALN.

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