



Llywodraeth Cymru
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GUIDANCE, DOCUMENT

A guide about the rights of children, their parents and young people under the additional learning needs (ALN) system

A guide on rights under the ALN system.

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In this page

Introduction

The ALN system

Additional learning need (ALN)

Rights under the ALN system

Right for a statutory plan: the individual development plan (IDP)

Right to challenge decisions about ALN

Right to ask the local authority to reconsider a decision made by a school

Right to ask for an advocate to speak up for them

Right to appeal to the ETW

Available support

Further information

Useful links

Glossary

Introduction

This guide explains the rights of children, their parents and young people under the additional learning needs (ALN) system.

These rights are:

- set out in the **Additional Learning Needs and Education Tribunal (Wales) Act 2018 ('the ALN Act')** (<https://www.legislation.gov.uk/anaw/2018/2/contents>)
- explained in more detail in the **Additional Learning Needs Code ('the ALN Code')** ([/additional-learning-needs-code](#)), which provides guidance on how the law should be applied in practice

This guide provides information about:

- the rights of children, their parents and young people under the ALN system
- what to do if they disagree with decisions made by a nursery, school, college or local authority
- what support is available to them through the ALN system

Where the guidance says 'nursery' or 'school', this means a nursery or school maintained by the local authority.

Where the guidance says 'parent' it also means any person who is not a parent, but who has parental responsibility for a child, and any person who has care of a child.

The ALN system

The ALN Act, the ALN Code and supporting regulations set out the legal framework for meeting the ALN of children and young people from birth to 25 years in Wales.

This legal framework is called the ALN system.

Additional learning need (ALN)

The ALN Act and ALN Code set out the definition of ALN that nurseries, schools, colleges and local authorities have to use when deciding whether a child or young person has ALN.

A child or young person has ALN if they have a learning difficulty or disability that makes it harder for them to learn than most children and young people of the same

age. These children and young people may need extra or different help from that given to others.

The process for identifying whether a child or young person has ALN is different for children below compulsory school age. This is explained further in the [Toolkit for parents and carers of children with additional learning needs \(/additional-learning-needs-aln-parent-and-carers-toolkit\)](#).

Rights under the ALN system

Children are given rights under the ALN system and most of these rights are also given to their parents.

When a child becomes a young person, their consent must be obtained. This means parents do not have the same rights once their child becomes a young person.

Under the ALN system, children and young people have a right to:

- a statutory plan: the individual development plan (IDP)
- challenge decisions about ALN they disagree with
- ask a local authority to reconsider a decision made by a nursery or school
- access an independent advocacy service
- appeal to the Education Tribunal for Wales (ETW) on certain decisions made by a college or local authority

Right for a statutory plan: the individual development plan (IDP)

If a child or a young person has been identified with having ALN, they will have a legal plan called an individual development plan (IDP). The IDP will include:

- the type of ALN the child or young person has (need)
- what support the child or young person needs (provision)
- what the child or young person will achieve when the support is put in place (outcome)

- any other relevant information

An IDP is prepared, maintained and kept under review by schools, colleges or local authorities. It does not matter who maintains the IDP, it is a legal plan.

The IDP is intended to be a flexible document. It will vary in length and complexity depending on the different needs of the child or young person.

The IDP must be reviewed at least every 12 months. However, an earlier review may be requested by the child, young person, school or college. The local authority may also decide to carry out an earlier review.

An **example of a standard form for an IDP** ([/individual-development-plan-idp-example-standard-form](#)) can be found on the Welsh Government's website.

IDPs should be created using a person-centred approach. This means that the people who know the child or young person best all work together to build a shared understanding of what the child or young person needs.

More information about person-centred reviews can be found in **Additional learning needs: guidance for parents and carers** ([/additional-learning-needs-guidance-parents-and-carers](#)).

Timescales for issuing an IDP

Children or young people identified with ALN need their IDP prepared by a set timescale, unless it is impractical to do so due to circumstances beyond the school, college or local authorities' control. The timescales depend on who is making the decision.

- A school has within 35 school days from it being brought to their attention that the child may have ALN.
- A college has within 35 term-time days from the date the young person consented to a decision being made about their potential ALN.
- A local authority has 12 weeks from when it is first brought to the attention of, or appeared to, the local authority, that a child or young person may have ALN.

A copy of the IDP or revised IDP will be given to the child, their parent or young person. This must be provided alongside information about what you can do if you disagree with the decision or the IDP, including information on rights of appeal and use of independent advocacy services.

Right to challenge decisions about ALN

Children, their parents and young people can challenge decisions made by a school, college or local authority about ALN if they disagree with them.

This includes decisions about:

- whether a child or young person has ALN
- the way a child or young person's ALN is described in an IDP
- the additional learning provision (ALP) described in the IDP
- who is responsible for maintaining an IDP

Right to ask the local authority to reconsider a decision made by a school

If you disagree with a decision that the school has made regarding ALN, you will need to speak to your school additional learning needs coordinator (ALNCo) or class teacher first.

If after that you still disagree with a decision made by the school, or if the school has refused to make a decision, you can ask for the responsible local authority to reconsider the decision. This is known as the reconsideration process.

All reconsideration requests should be made directly to the local authority. While no specific form is required, it is best to make the request clearly in writing explaining that you are asking the local authority to reconsider a decision. The request should include:

- all the information that you have on your child
- any decision letters
- any other supporting evidence or information that you think is relevant

The school should provide you with information about how to contact the local authority.

The local authority:

- will inform the school of the request
- will invite the school and other professionals to provide any relevant information to help it make its decision
- should make the decision promptly
- must inform you of the decision along with the reasons for it within 7 weeks of receiving the request

The process is different for IDPs maintained by a college or local authority, as decisions in these cases can be appealed to the ETW.

Right to ask for an advocate to speak up for them

An advocate is someone who will speak on behalf of a child or young person. They can be a friend, family member or from a professional agency.

Children and young people have a right to have an advocate. They help and speak up for children and young people if there is a disagreement and can help when:

- using dispute resolution services
- wanting to make an appeal to the ETW
- speaking on children and young people's behalf at an appeal

The local authority must make arrangements to provide children, their parents and young people with information, advice and access to independent advocacy services. There is no cost for service and they must be impartial.

Right to appeal to the ETW

The ETW decides appeals relating to ALN decisions and claims of disability-related discrimination in schools in Wales.

Children, their parents and young people have a right to appeal certain decisions made by their local authority or college to the ETW.

Where the decision is made by a school, the child, their parent or young person need to ask the local authority first to reconsider their decision before appealing to the ETW. There is no right of appeal to the ETW based on school decision alone.

Not all decisions can be appealed; an appeal can be made:

- on a decision by a college or a local authority on whether a child or a young person has ALN
- on whether a young person needs an IDP
- if the local authority refuses to change or maintain an IDP
- if the local authority decides to stop (cease) an IDP
- if the local authority refuses to look at something again because they say nothing has changed

The child, their parent or young person can also appeal certain sections of the IDP. These are underlined, bold and red on the **Individual Development Plan (IDP): example of standard form** (</individual-development-plan-idp-example-standard-form>).

These sections of the IDP include:

- 2A: description of the child or young person's ALN
- 2B.2: ALP to be provided
- 2B.3: should the ALP be provided in Welsh?
- 2B.5: start date
- 2B.6: end or review date
- 2C.2: ALP to be provided by an NHS body
- 2C.3: should the ALP provided by an NHS body be provided in Welsh?
- 2C.5: start date of the ALP to be provided by an NHS body
- 2C.6: end or review date of the ALP to be provided by an NHS body
- 2D: place at a named school, other institution or board and lodging

The child, their parent or young person will have 8 weeks to appeal to the ETW from the date when the local authority makes its final decision in a letter.

If you decide to use your local authority's Dispute Resolution Service (DRS) before you appeal to the ETW, the ETW will extend your time limit to apply by 8

weeks. This would make the time limit 16 weeks from the date of the local authority decision letter. It is important that you tell ETW you have used the DRS if you apply in this 8-week extension period.

More information about making an appeal can be found on the [ETW website](https://educationtribunal.gov.wales/) (<https://educationtribunal.gov.wales/>).

Available support

Information about ALN and the ALN system

The ALN system places a duty on local authorities to provide impartial information and advice about ALN and the ALN system. The child or young person's school or college should also have support and information available.

The information and advice will explain to children, their parents and young people:

- their rights
- what they can do if they do not agree with the decisions made

You can use the [search tool to find a local authority's ALN information page](/get-help-additional-learning-needs-your-local-authority) (</get-help-additional-learning-needs-your-local-authority>).

For further advice and support, you can also refer to the [Toolkit for parents and carers of children with ALN](/additional-learning-needs-aln-parent-and-carers-toolkit) (</additional-learning-needs-aln-parent-and-carers-toolkit>) as well as [Chapter 6 of the ALN Code](/additional-learning-needs-code) (</additional-learning-needs-code>).

Using dispute resolution services

Sometimes, disagreements can arise. Dispute resolution services (DRS) are independent services that help the child, their parent, the young person, schools and local authorities resolve disagreements about ALN.

All local authorities in Wales must make arrangements and provide access to independent DRS to help resolve disagreements. The DRS does this by helping all involved to discuss the disagreement and work towards a solution.

DRS should generally:

- reduce the need to take a disagreement to the ETW
- lead to disagreements being settled more quickly

Using DRS is not compulsory. Children, their parents and young people can make an appeal to the ETW without using DRS.

Using the DRS does not stop a child, their parents or a young person from making an appeal. Even if an appeal has been made, children, their parents and young people can continue to talk to the local authority to try to reach agreement.

NHS Wales: complaints and concerns

The process for raising concerns or complaints or disagreements in NHS Wales is called **Listening to People** ([/listening-people-nhs-wales-complaints-incidents-and-redress-process-organisations](https://www.gov.wales/nhs-wales-complaints-incidents-and-redress-process-organisations)).

If you have concerns about NHS care or treatment, it's best to speak to the staff involved as soon as possible. They will try to resolve your concerns straight away.

If this doesn't help, or you do not feel comfortable speaking to the staff, you can **contact the health board or trust's complaints team** (<https://www.gov.wales/nhs-wales-complaints-and-concerns-putting-things-right#complaints>).

Getting help from a case friend

Some children or young people may need help to understand their rights under the ALN system. If a child or a young person does not understand ('lacks capacity'), a case friend can:

- speak up for a child or a young person
- support them in making decisions
- help them understand information about ALN
- make an appeal to the ETW on their behalf

You or your child can ask the ETW for a case friend.

Chapter 32 of the ALN Code ([/additional-learning-needs-code](#)) gives more information about using case friends to support children who lack capacity and about using representatives to support young people who lack capacity to exercise their rights and make decisions under the ALN Act.

Further information

You can find out more about **ALN on the Welsh Government website** ([/additional-learning-needs-code](#)).

You can also contact:

ALN Branch
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

email: **AdditionalLearningNeedsBranch@gov.wales**
(<mailto:additionallearningneedsbranch@gov.wales>).

Useful links

- **Additional learning needs: guidance for parents and carers** ([/additional-learning-needs-guidance-parents-and-carers](#)): helps parents and carers understand the ALN system and the support available for children and young people.
- **The Education Tribunal for Wales (ETW)** (<https://educationtribunal.gov.wales/>): makes decisions on appeals about ALN and claims of disability discrimination in schools.
- **Family Information Service** ([/find-your-local-family-information-service](#)): provide free, impartial information and advice on a variety of services for children and young people (from birth to age 25).
- **Neurodivergence Wales** (<https://neurodivergencewales.org/en/parents-carers/>): provides resources aimed at increasing the knowledge, skills and

understanding of neurodivergence for parents and carers of neurodivergent people.

- **Disability discrimination in schools: guidance on the law for local authorities** ([/disability-discrimination-schools-guidance-law-local-authorities](#)): outlines the legal duties for local authorities on providing advice, resolving disputes and advocacy services.
- **Learning Disability Wales** (<https://www.ldw.org.uk/>): a national charity representing the learning disability sector in Wales. It promotes the importance of accessible and inclusive post-16 education for learners with complex needs, raising concerns about barriers in the current ALN reform process.
- **Listening to People** ([/listening-people-nhs-wales-complaints-incidents-and-redress-process-organisations](#)): the process for raising concerns, complaints or disagreements in NHS Wales.

Glossary

This glossary gives the meaning of words and expressions, including abbreviations, used in this guide.

Additional learning needs (ALN)

Children and young people with learning difficulties or disabilities that need extra support to learn.

Additional learning provision (ALP)

The name for the extra support that is given to children and young people with ALN.

Advocate

An advocate is someone who provides advice and assistance to a child or young person (including a child's case friend) who is considering or making an appeal to the ETW or taking part in arrangements for avoiding or resolving disagreement.

ALN Act

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

ALN Code

The Additional Learning Needs Code for Wales 2021.

ALN system

The statutory system for meeting the ALN of children and young people. It is made up of the ALN Act, the ALN Code and the Regulations.

Appeals

Children, their parents and young people can make appeals to ETW against certain decisions made by a college or local authorities about ALN.

Case friend

Person appointed to represent, support and act on behalf of a child.

Capacity

A child's ability to understand and make decisions about exercising their rights under the ALN system.

Child

Person not over compulsory school age (the meaning of which is given by section 8 of the Education Act 1996).

Claim of disability discrimination

Children, their parents and young people can make a claim of disability discrimination in school to the ETW.

College

An institution falling within section 91(3) of the Further and Higher Education Act 1992.

Dispute resolution service (DRS)

The arrangements made by local authorities to help resolve disagreements.

Education setting

Any place where education is provided, including nurseries, schools, colleges or other arrangements such as education other than at school (EOTAS).

Education Tribunal Wales (ETW)

The ETW listen to appeals and determine disputes relating to ALN decisions and IDPs.

Independent advocacy service

A service that provides independent advice, assistance and representation to support a child or young person in expressing their views. It also helps with the appeal process or disagreement resolution services.

Individual development plan (IDP)

The plan for children and young people with ALN. It explains their ALN and the ALP they require.

Local authority

The council of a county or county borough in Wales, except where specific reference is made to a local authority in England (for the meaning of that see section 579(1) of the Education Act 1996).

Parent

The meaning given in Section 576 of the Education Act 1996. It includes any person who is not a parent but who has parental responsibility for the child and any person who has care of the child.

Person-centred review

A way of reviewing a child's progress and support that puts their voice and their parent's voice at the centre. It is different from a traditional review in that everyone's views are given equal importance.

Representative

A person who may act on behalf of a child or young person, particularly where they lack capacity, including in ETW proceedings or ALN processes.

Reconsideration process

The process by which a child, parent or young person may request a local authority to reconsider a decision made by a maintained school.

Young person

A person over compulsory school age, but under 25.

A more comprehensive glossary of terms is available in [Chapter 1 of the ALN Code \(/additional-learning-needs-code\)](#).