



## Report of the Cabinet Member for Education and Learning

Schools Scrutiny Performance Panel 17 November 2022

### Additional Learning Needs reform update

<b>Purpose:</b>	To update the Schools Scrutiny Performance Panel on Additional Learning Needs Reform
<b>Content:</b>	An update on the progress of Additional Learning Needs Reform
<b>Councillors are being asked to:</b>	Consider the information provided and form views
<b>Lead Councillor:</b>	Councillor Robert Smith, Cabinet Member for Education and Learning
<b>Lead Officer &amp; Report Author:</b>	Alison Lane, Head of the Additional Learning and Inclusion Team

#### 1. Background

- 1.1 The Additional Learning Needs and Inclusion team (ALNIT) currently sits within the Vulnerable Learners Service and provides a statutory service, prescribed by the Education Act 1996, the Special Educational Needs (SEN) Code of Practice 2002, the new Additional Learning Needs and Educational Tribunal (ALNET) Act 2018, Additional Learning needs Code 2021 and regulations.
- 1.2 The ALNET Act will replace the SEN Code of Practice 2002 through a phased implementation that began in September 2021. The legal frameworks inform the work of ALNIT and other key stakeholders such as educational settings and the Local Health Board (LHB).
- 1.3 During its implementation phase, pupils will follow either the SEN legislative system or the ALN system until full implementation takes place, this is determined by Welsh Government guidance.
- 1.4 The ALNET Act aims to improve the planning and delivery of support for learners from 0-25 with additional learning needs (ALN) by adopting a more person-centred approach to planning and delivery of support to meet the needs of children and young people.

- 1.5 Welsh Government (WG) have packaged ALN Reform as cost neutral. Experience of implementation has shown otherwise. They have since acknowledged that this reform is not a cost neutral and information has been provided from local authorities across Wales to illustrate the additional cost implications of delivering the new legislation. Welsh Government have agreed funding over the next three years with details yet to be finalised.
- 1.6 Preparation for ALN Reform in the Local Health Board resulted in limited progress pre-pandemic and as a result it is less prepared for the ALN reform. This has an impact on the implementation of the legislation. Designated Education Clinical Lead Officers (DECLOs) across Wales have sought clarification on some of the aims of the legislation from Welsh Government, which has enabled them to provide draft guidance and develop processes to support ALNET implementation.

## **2. Progress to date**

- 2.1 Transformational leads were appointed by Welsh Government to provide regional leadership on the reform. On their appointment additional regional meetings were developed to plan for ALN reform and to ensure a consistency of approach across the region. A regional strategy and plan were developed with each local authority leading on key regional work streams. All work undertaken within these groups were shared amongst all partners and fed into our more local work streams.
- 2.2 In 2019 a robust ALN Strategy was developed for Swansea to outline the transformation programme required to implement the ALNET Act successfully between 2019-2022. This was developed with key strategic partners and overseen by the ALN Strategic Board. The strategic board's membership includes headteachers, councillors, FEI colleagues, local health board colleagues, DECLO, Social Services and early years sector.
- 2.3 The strategy was developed under six key themes:
  - Transition
  - Capacity
  - Provision
  - Quality
  - Partnership
  - Assessment
- 2.4 These themes were broken down further into individual projects that were led by senior leads within the Additional Learning Needs and Inclusion Team with input from a number of key stakeholders. The whole programme was overseen by a dedicated transformation programme manager, whose post is no longer part of the ALNIT structure.
- 2.5 It was agreed that to ensure a robust joined up approach from the national, regional and local work we would invest grant funding to secure Cluster Additional Learning Needs Coordinator (ALNCo) leads, these would be the link between all the above work streams and educational settings (including FEI,

PRU and Early years). The ALNCO cluster leads have been a great asset to the transformation programme as we have been able to build up processes and practical guidance documents from those that will be using them. It has enabled us to develop expertise within all clusters to ensure that good practice and school to school support can be maximised within the guidance and direction of the ALNIT.

### **3. Successes and challenges**

- 3.1 Despite the challenges faced over the last couple of years, there has been meaningful change and progress to ensure readiness for the ALNET reform. The team have led on key project developments as well as continue with business as usual of managing the SEN legislation and the new ALN framework. Extensive professional learning opportunities have been provided for schools as well as early years and FEI setting. Awareness raising sessions have also been provided for all key stakeholder groups.
- 3.2 Collaboration and multiagency working have improved and engagement has been enhanced using online platforms.
- 3.3 There have been significant challenges with the LHB's readiness for implementation which has impacted the initial success of the implementation, however there is an appetite to work collaboratively to develop a shared vision and principles for joint working for the future.
- 3.4 Stakeholders have highlighted the need for more timely and complete information to be provided by WG.

### **4. Revised strategy and support implemented**

- 4.1 The ALNET strategy has been reviewed and finalised, with a new strategy drafted that aligns to the regional strategy. All outstanding actions from the previous strategy have been transferred to the new strategy. This strategy covers the period between 2022-27 and has the following priority areas:
  - Schools
  - Post-16
  - Collaboration
  - Early Years
- 4.2 There has been a significant level of work undertaken with schools to develop the workforce in readiness to deliver the ALNET transformation. This includes accredited training modules so that staff in schools have sufficient skills to identify and plan for meeting the needs of ALN learners.
- 4.3 Whilst we continue to support schools to develop these skills, our next focus for schools is on quality assurance to ensure that there is a consistent approach to ALN provision across Swansea. Moderation exercises are taking place to support staff develop a consistent quality of IDPs across the LA, as well as the development of provision maps to outline universal targeted and specialist provision on offer across the LA.

- 4.4 Close links with and training for the School Improvement team on ALN provision and what they should be looking for, will make sure that school improvement advisors have sufficient knowledge to ensure that there is effective school leadership for ALN provision within our schools.
- 4.5 The local authority has a duty to review additional learning provision in its area and we are in the process of developing mechanisms to ensure that we have clear processes in place to undertake this review in collaboration with our stakeholders.

## **5. Post-16**

- 5.1 Post-16 is the main priority area for the year ahead, as this becomes live in September 2023. Close links are being developed with the college and there is key work stream in place to ensure successful implementation. WG have published commencement orders for Post-16 implementation which involved a 'flow through' approach to implementation where learners that have been transferred to the ALN system in their school setting will transition into the college setting with an IDP already in place. We are therefore ensuring that there are close links in developing the IDP for year 11 leavers to ensure that the IDP captures the transition arrangements that will need to be in place for successful transition.
- 5.2 Funding arrangements for Post-16 provision are to be managed by WG in the first instance however, clarification on how this will be distributed in the future is still yet to be finalised. WG have indicated that they are considering using the existing funding formula for allocation for Post-16 specialist placement. However, concerns regarding this approach have been raised as this does not recognise that some LAs have undertaken significant work to ensure that they have suitable local provision for learners' needs to be met in their locality.

## **6. Local Health Board**

- 6.1 There are regular meetings with the LHB with strategic discussions taking place across the LHB footprint to ensure consistency. The LHB have communicated their position in relation to what they view as LHB ALP. Further discussion is required on the management of cases where there is a dispute which involves health provision. Particularly the role of the LHB in working with the Council to identify what provision should be made where parents have commissioned private assessments.
- 6.2 ALNIT are working closely with the LHB to discuss how the Neuro developmental pathway can be refined as the current system relies heavily on education staff assessments. These assessments often must be repeated as the waiting times for diagnosis are so long. This is not an efficient use of education staff time and impacts the ability of the team to undertake early intervention work to avoid escalation of need.

## **7. Early years**

- 7.1 There is continued support provided for early years settings, including funding, training, advice, and information. Training needs are identified through liaison with the settings and delivered flexibly to meet the needs of the settings.
- 7.2 Specialist staff are available for regular question and answer sessions to provide support to practitioners.
- 7.3 Moderation of EY IDPs takes place to ensure that there is a consistency of person-centred practice and IDP development.

## **8. Conclusions/Key Points Summary**

- 8.1 Despite the challenges faced over the last couple of years, there has been meaningful change and progress to ensure readiness and delivery of ALNET reform. The team have led on key project developments as well as continue with business as usual of managing the SEN legislation and the new ALN framework. Extensive professional learning opportunities have been provided for schools as well as early years and FEI setting. Awareness raising sessions have also been provided for all key stakeholder groups.
- 8.2 Collaboration and multiagency working have improved and engagement has been enhanced using online platforms. Work continues with the LHB to ensure that roles and responsibilities are clearly articulated, processes are robust and support is available where it is required. There continues to be an appetite to work collaboratively to develop a shared vision and principles for joint working for the future.
- 8.3 Information has been provided by WG however, there are still concerns in relation to funding arrangements for Post-16 learners as well as the timeline for conversion from SEN to ALN for the academic year 23/24. It is felt that WG have not fully recognised the challenges that are in place for LAs and schools in relation to budgetary pressures, Covid, staffing shortages and staff welfare. WG are being called to revise ALN conversion timeline and relax legislation to support LA's face the current challenges.

## **9. Integrated Assessment Implications**

- 9.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.

- Deliver better outcomes for those people who experience socio-economic disadvantage
  - Consider opportunities for people to use the Welsh language
  - Treat the Welsh language no less favourably than English.
  - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 9.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 9.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also considers other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 9.4 An IIA Screening Form has been completed with the agreed outcome that a full IIA report was not required for the following reasons:
- This is a report to share information. The summary of impacts is low. No mitigation is required.
  - This is a report to share information regarding the implementation of the Curriculum for Wales, which is linked to the corporate objective of improving education and skills.
  - This is a report to share information. No risks have been identified and no impact is envisaged.

## **10. Legal Implications**

- 10.1 WG are being called upon to relax the legislative responsibilities placed on schools and LAs in recognition of the unprecedented challenges being faced at present.
- 10.2 There is a concern that due to staff shortages for support staff, the LA and schools are open to legal challenge if they are unable to deliver provision. We are seeking support from WG to manage this situation.
- 10.3 WG are being asked to extend the conversion timeline to enable schools and LAs flexibility in transferring to the new system.
- 10.4 Further work is required to agree on how the LHB will support Special Educational Needs Tribunal for Wales (SENTW) cases where parents have commissioned private health assessments due to lengthy LHB waiting times.
- 10.5 In addition, the general lack of provision in the LHB to meet the demands of the Act could result in increased legal challenge through SENTW which may result in the LA having to fund the lack of provision through private providers.

## **11. Financial Implications**

- 11.1 We have planned for all known staffing requirements for the implementation of the Act. However, it is difficult to predict the actual figures and demand on the service as we implement the new legislation. This is due to greater parental awareness and expectation. As implementation progresses further reviews of the structure will be required to respond to demands on the service as they become apparent. This is particularly concerning in the current financial climate.
- 11.2 We are seeing an increase in difficulty recruiting teaching assistants who help provide support and early intervention to learners with ALN. This poses a risk as without early support and intervention there is risk that needs will escalate, requiring more costly intervention long term.
- 11.3 Lack of clarity on how the funding for Post-16 provision will be delegated to LAs is an area of concern as if we do not receive sufficient funding it would be a new budgetary need for the service.
- 11.4 There is a likelihood that as the new legislation is implemented there could be an increase in SENTW appeals. This will be due to the need to create case law for the legislation. Inevitably, tribunals are costly and it is difficult to predict the level of increase at this point.

**Background papers:** None

### **Appendices:**

Appendix A – Delivery report

Appendix B – IIA Screening Form