

ALN Changes for Wales

Legal references on this page apply to Wales.

Update Summer 2016

[Consultation Responses \(blogpost\)](#) July 1st 2016. [Announcement July 14th](#), expect publication of Bill before Christmas.

In a [written statement July 1st 2016](#) Alun Davies, Minister for Lifelong Learning and Welsh Language noted "*misunderstandings of our intentions or the anticipated practical impact of our proposals*" as well as "*direct concerns about specific aspects of the proposals*".

June 28th 2016: "*An Additional Learning Needs Bill will provide for a new legal framework for supporting children and young people, aged 0–25, who have additional learning needs, delivering improvements to the services they receive.*" [Link](#)

How Does The Bill Become Law?

The Welsh Government has said that the Additional Learning Needs (ALN) Bill will be published before Christmas 2016. There is a significant difference between England and Wales in that Wales does not have a Second Chamber (House of Lords) The Business Committee sets the deadline for various stages, so committees and debates don't go on indefinitely.

(It may well be that a lot of the detail is kept back for secondary legislation or for a new ALN Code of Practice. A draft illustrative Code was published in 2015 but this will not necessarily be particularly relevant. We have been told that a new iteration of the Code will be published during scrutiny of the Bill but this might not be till stage 2.)

Stage 1 The committee will consider "general principles" of the Bill, and will ask for **written and oral evidence from interested parties**, as well as holding **meetings to take oral evidence from a range of interested stakeholders**. The committee will then publish a **Stage 1 Report**, which may contain recommendations for **amendments** to the Bill. After at least 5 working days, there is a **Stage 1 debate** in the Assembly where AMs could raise issues on behalf of constituents.

Stage 2 After the Stage 1 debate and vote, there will either be a small group committee (made up of selected Assembly Members) or "a Committee of the Whole Assembly". This decision is made by the Business Committee. Whichever committee is chosen then begins to go through the Bill line by line, considering whether to accept **amendments** to the Bill. Stage 2 amendments must be tabled by committee members at least 5 working days before the meeting at which they are to be considered. (See page 13 for more details on who can table amendments and vote on them [here](#).)

I would expect a new version of the Code of Practice to be available at some point during stage 2, although this will likely change again several times more. Stage 2 ends with a new version of the Bill being published.

Stage 3 provides a chance for **ALL** Assembly Members to table **amendments** and to vote on the details of the Bill (although not all amendments are necessarily selected for debate AND there may be a time limit) At least 15 days must pass between the end of Stage 2 and the first Stage 3 debate. You can read the transcript of these debates within 24 hours. At the end of Stage 3 an "amended at Stage 3" version will be published.

Report Stage is optional. The Assembly **may** return to issues in the Bill during Report stage, for example if significant changes have been made during Stage 3. **This is the LAST time anything can be changed.**

Stage 4 At Stage 4 the Assembly will vote on a motion to pass the final text of the Bill, and then if there is no legal challenge, the Bill will receive Royal Assent and become an Act. NB not all sections of the Act will necessarily come into force at the start; for example the Social Services and Wellbeing Act [took 2 years](#)

[Details here](#) via [this page](#)

Background

In Wales, the term "special educational needs" [SEN] has been replaced by "additional learning needs" [ALN].

In July 2015 the Welsh Government launched [a consultation](#) on the Draft Additional Learning Needs and Education Tribunal (Wales) Bill. Comments were requested by December 2015. A new [draft Additional Learning Needs Code of Practice](#) was also published at the end of September 2015.

The proposals in the draft Bill largely follow the proposals set out in the 2014 White Paper, notably a **single category of 'Additional Learning Needs'** to replace Statements, School Action, and School Action Plus.

Sinclair Law consultation response, Mike Charles [LINK](#) highlights the danger of removing the statutory assessment leaving a general requirement upon schools to identify need as opposed to a prescribed system of expert assessments.

[Welsh Government clarification](#) November 2015: "In the case of those learners whose needs are complex and severe, the draft Bill would empower schools to refer cases to local authorities as needed ..." Sinclair Law comment December 2015 [LINK](#) "this proposed bill, if passed, will not only send schools into battle with parents, but will most certainly lead to potential litigation.

2015 Consultation Documents

- [Consultation Document](#) 6 pages. Overview. See especially page 4
- [Draft Bill](#) 46 pages
- [Draft Additional Learning Needs Code of Practice](#) September 2015
- [Impact Assessments](#) 46 pages total, collected Children's Rights Impact Assessment, Equality Impact Assessment, and Welsh Language Impact Assessment
- [Draft Explanatory Memorandum](#) Incorporating Draft Regulatory Impact Assessment and Draft Explanatory Notes. 138 pages. See especially pages 10-29 for relatively brief overview, pages 53- 107 Regulatory Impact Assessment 'Options' for recap of and comparison with previous proposals in 2012, regarding cost and efficiency, especially over whether Individual Development Plans for much wider category than statements will mean too much extra work
- [Consultation Response Form](#) 5 pages, 7 questions, see below

Q1 – The introduction of the term ALN and a 0–25 age range

Q2 – A unified planning process with increased participation by children and young people

Q3 – High aspirations and improved outcomes

Q4 – Increased collaboration

Q5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Q6 – Feedback on Supporting documents

Q7 Any related issues

When is Disability "Additional Learning Need"?

The following quotes are taken from the [Draft Additional Learning Needs Code of Practice](#) published at the end of September 2015 which explains at the outset "*This is an early draft version of the Additional Learning Needs Code. The provisions which appear in it have been published solely for illustrative purposes. This document provides information to support the current required public consultation on the draft Additional Learning Needs and Education Tribunal (Wales) Bill. It is not in itself subject to that consultation.*"

Many points are very similar to [the new SEND Code in England](#). For example, in the draft ALN Code, a child or young person with a disability has Additional Learning Needs if they require Additional Learning Provision, as a result of disability. (The [English Code](#) says that "*where a disabled child or young person requires special educational provision they will also be covered by the SEN definition.*" [page 16])

98. The key questions to ask are therefore: Does the person have a significantly greater difficulty in learning than the majority of others of the same age?

Does the person have a disability which prevents or hinders them from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools and FEIs?

If the answer to either question is 'yes', the individual is to be considered as having a learning difficulty or disability for the purposes of the Act.

However, this does not in itself mean that a disabled person has "Additional Learning Needs." A person with a disability only has Additional Learning Needs if they require Additional Learning Provision as a result of their disability. There is no formal opportunity to comment at this stage; this will only arise when the Government consults later on the draft Code. NB, the [draft Bill](#) published in July says that there are Additional Learning Needs when a person's disability "calls for additional learning provision".

Additional Learning Provision

99. The next step is to determine whether that learning difficulty or disability calls for 'Additional Learning Provision'.

100. Section 3 of the Act defines the term 'Additional Learning Provision' ('ALP').

101. For a person aged three or over, ALP means educational or training provision that is additional to, or different from, that made generally for others of the same age in:

mainstream maintained schools in Wales;

mainstream FEIs in Wales; or

places in Wales at which nursery education is provided (section 3(1))

Initial considerations – disabilities

113. Not all disabled children and young people will have ALN [*Additional Learning Needs]. However, if their disability prevents or hinders them from making use of educational facilities or strategies, which are of the kind generally provided for others of the same age in mainstream maintained schools or FEIs, and the individual requires ALP as a result, then they are to be regarded as having ALN.

Moreover, there will be some forms of disability, the nature of which mean it is likely that the learner will have ALN [*Additional Learning Needs].

Home Education in Draft Code

This is new for Wales, but has many echoes of the elective home education section [the new SEND Code for England](#)

Children and young people with ALN receiving elective home education

523. Section 7 of the Education Act 1996 (as amended) places a duty on the parents of every child of compulsory school age to ensure their child receives efficient, full-time education suitable to their age, ability, aptitude, and to any ALN that they may have, either by regular attendance at school or otherwise.

524. Local authorities should work in partnership and support parents to help them meet the ALN of children receiving elective home education. Local authorities do not have a right of entry to the family home to check that the provision being made by parents is appropriate, and may only enter the home if the families consent to it. Parents should be encouraged to see this process as part of the local authority's overall approach to home education of learners with ALN, who can provide additional support and expertise rather than an attempt to undermine the parents' decision to home educate.

525. Local authorities should not assume that because the provision being made by parents is different from that which was being made or would have been made in school, that the provision is necessarily unsuitable. Local authorities should also consider helping parents make suitable provision.

526. Parents who choose to educate their child at home and believe the child or young person has ALN, have the right to ask the local authority to determine the matter. Where the local authority decides not to put in place an IDP, the child and the child's parents have the same right to appeal as everyone else.

Ceasing the Individual Development Plan

The draft ALN Code envisages children moving on and off Individual Development Plans. The hope must be that if it is easier to reinstate an IDP at short notice, parents will be less inclined to take it to an expensive tribunal to hang on to it. I imagine parents and advocates will want the short notice reinstatement to be codified in some way and not left to goodwill.

"438. In some situations, the school, FEI or local authority may determine, usually as an outcome of a review, that the child or young person no longer has ALN and, therefore, no longer requires an IDP. There should be no presumption that because a child or young person has been given an IDP they will continue to need one until they leave education or training. In considering this issue, practitioners should refer back to the basic definition of ALN at section 2 of the Act (and the further guidance in Chapter 6 of this Code) and consider whether that test is still met.

Notification of a decision

439. Children, their parents and young people may find a proposal to remove an IDP and ALP alarming. They should be reassured that appropriate, ongoing, support through differentiated teaching, and other relevant strategies and practice, can and will be delivered, and that if ALN re-emerges an IDP can be reinstated at short notice. If it is decided at a review meeting that the child or young person no longer has ALN, these matters would normally be discussed at that time."

Government Response to White Paper Consultation 2014

[Summary Consultation Responses](#) published October 14th 2014. [full set of consultation responses](#) "The costs associated with the proposed reforms will be set out in the Regulatory Impact Assessment section of the Explanatory Memorandum to be published when the Bill is introduced." These changes are due to be discussed in the National Assembly in summer 2015.

2014 White Paper

In June 2014 the Welsh Government [published a White Paper](#) proposing to change the law covering special educational needs in Wales. Read more [here](#).

Over the past 5 years, various legislative changes have been considered but [previous proposals in 2012](#) were dropped part-way through the consultation process when the Government acknowledged that there wasn't sufficient time to include SEN in the forthcoming Education Bill (now Act), although [pilots](#) and [discussions](#) continued and informed the May 2014 White Paper.

The White Paper also took account of the new [Social Services and Well-being \(Wales\) Act 2014](#) and [reforms to the SEN framework in England](#) under [the Children and Families Act 2014](#), which WAG says "has raised issues and provided lessons for consideration as well as having some cross-border impacts."

White Paper Consultation Response re Home Education 2014

At present it is only those children and young people with a statement of SEN who have annual reviews, but under the proposed new system, statements, School Action and School Action Plus will all come under one umbrella of "Additional Learning Needs" or ALN. All children and young people in this wider ALN group will have Individual Development Plans or IDPs, to be reviewed every year, as statements are now. Around a thousand home educated children are listed as being home educated in Wales and at the time of the last survey in 2012, 51 home educated children were recorded as having a statement of SEN. The BBC has estimated that only 1 in 8 children with special needs actually have a statement. My concern is that in future if reviews were carried out for lower-level SEN as well, this would potentially impose annual reviews on hundreds more home educated children and young people in Wales. A subsidiary point is that currently, parents sometimes want to keep the statement as "insurance" even though there is little or no benefit when a child is home educated. It is difficult to see how this will work if some IDPs are effectively "real statements" and some aren't, for example with special access arrangements in exams or other situations where having a statement opens the door to services.

July 24th 2014

2012 Proposed SEN Changes

In 2012 the Welsh Government proposed involving health and social services as equal partners alongside education services, with a category of **Additional Needs** [AN], whereas the 2014 proposals are in some ways a retreat back to the status quo of SEN, since the Government is now proposing "**Additional Learning Needs**" [ALN] to capture children and young people who require additional learning provision in order to allow them to benefit as fully as possible from the education or training available to them. ALN will require "**Additional Learning Provision**" [ALP] which may include provision from a range of services beyond education "*where these are necessary to enable a child or young person to access learning.*"

FOI Responses Home Education and SEN Wales 2012

In 2012 half (11/22) the local authorities in Wales didn't have a policy for SEN and home education. Around a thousand home educated children were listed as being home educated in Wales, and of those, 51 were recorded as having a statement of SEN. More statistics about home education and SEN in Wales [here](#)

Divergence England and Wales SEN

At the time of writing in July 2015, the law on SEN in England is contained in the new Children and Families Act. All new assessments in England will be for Education Health Care Plans (EHCPs).

Related Pages

[Home Education in Wales](#)
[2013 Consultation Safeguarding Children in Education](#)
[2012 EHE Consultation Workshop Notes](#)
[2012 EHE Consultation Briefing](#)
[2012 FOIs](#)
[2012 SEN + EHE Consultation Response](#)
[2012 EHE Consultation Response](#)

Link Reference

This article is <http://edyourself.org/articles/senchangewales.php>. The following links to other websites are contained in the article, displayed as citations to aid you in printing the document.

1. Announcement July 14th <http://gov.wales/about/cabinet/cabinetstatements/2016-new/alnetupdate/?skip=1&lang=en>
2. written statement July 1st 2016 <http://gov.wales/about/cabinet/cabinetstatements/2016-new/58397193/?skip=1&lang=en>
3. Link <http://gov.wales/about/cabinet/cabinetstatements/previous-administration/2016/updatealnbill/?lang=en>
4. here http://www.assembly.wales/NAfW%20Documents/Assembly%20Business%20section%20documents/Guide%20to%20the%20Stages%20of%20Public%20Bills%20and%20Acts/Guide_to_the_Stages_of_Public_Bills_and_Acts-eng.pdf
5. took 2 years <http://www.ccwales.org.uk/the-act/>
6. this page http://www.assembly.wales/NAfW%20Documents/Assembly%20Business%20section%20documents/Guide%20to%20the%20Stages%20of%20Public%20Bills%20and%20Acts/Guide_to_the_Stages_of_Public_Bills_and_Acts-eng.pdf
7. draft Additional Learning Needs Code of Practice <http://gov.wales/consultations/education/draft-aln-and-education-tribunal-wales-bill/?lang=en>
8. LINK <http://www.sinclairslaw.co.uk/news/specialist-law-firm-responds-to-welsh-consultation/>
9. LINK <http://gov.wales/about/cabinet/cabinetstatements/2015/10705926/?lang=en>
10. Consultation Document <http://gov.wales/docs/dcells/consultation/150703-consultation-document-e.pdf>
11. Draft Bill <http://gov.wales/docs/dcells/consultation/150703-draft-aln-and-education-tribunal-wales-bill-e.pdf>
12. Draft Additional Learning Needs Code of Practice <http://gov.wales/docs/dcells/consultation/150929-draft-aln-code.pdf>
13. Impact Assessments <http://gov.wales/docs/dcells/consultation/150706-impact-assessment-en.pdf>
14. Draft Explanatory Memorandum <http://gov.wales/docs/dcells/consultation/150706-explanatory-memorandum-en.pdf>
15. Consultation Response Form <http://gov.wales/docs/dcells/consultation/150706-response-form-en.doc>
16. Draft Additional Learning Needs Code of Practice <http://gov.wales/docs/dcells/consultation/150929-draft-aln-code.pdf>
17. draft Bill <http://gov.wales/docs/dcells/consultation/150703-draft-aln-and-education-tribunal-wales-bill-e.pdf>
18. the new SEND Code for England <http://edyourself.org/articles/newcode.php#ehe>
19. full set of consultation responses <http://wales.gov.uk/about/cabinet/cabinetstatements/2014/additionallearningneeds/?lang=en>
20. here <http://wales.gov.uk/about/cabinet/cabinetstatements/2014/whitepaperaln/?lang=en>
21. discussions <http://wales.gov.uk/consultations/education/senframeworkconsultation/?status=closed&lang=en>
22. the Children and Families Act 2014 <http://www.legislation.gov.uk/anaw/2014/4/enacted>
23. here <http://edyourself.org/articles/FOIwales2012.php>
24. Home Education in Wales <http://edyourself.org/articles/EnglandandWales.php>
25. 2013 Consultation Safeguarding Children in Education <http://edyourself.org/articles/safeguardingconsultwales.php>
26. 2012 EHE Consultation Workshop Notes <http://edyourself.org/articles/wrexhamworkshop.php>
27. 2012 EHE Consultation Briefing <http://edyourself.org/articles/walesbriefing.php>
28. 2012 FOIs <http://edyourself.org/articles/FOIwales2012.php>
29. 2012 SEN + EHE Consultation Response <http://edyourself.org/ANwales2012consultresponsesummary.pdf>
30. 2012 EHE Consultation Response <http://edyourself.org/electivehomeeducationconsultationwales.pdf>

