

Supplementary guidance for inspecting Additional Learning Needs in non- maintained settings

Autumn 2022

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

The purpose of Estyn and Care Inspectorate Wales joint inspections is to inspect quality and standards in education and ensure compliance with the Childminding and Day Care (Wales) Regulations 2010.

Estyn and CIW are responsible for joint inspection of nursery settings that receive funding from Local Authorities to provide education and are registered with Care Inspectorate Wales:

Every possible care has been taken to ensure that the information in this document is accurate at the time of going to press. Any enquiries or comments regarding this document/publication should be addressed to:

Publication Section

Estyn

Anchor Court

Keen Road

Cardiff

CF24 5JW or by email to publications@estyn.gov.wales

This and other Estyn publications are available on our website:

<http://www.estyn.gov.wales>

Care Inspectorate Wales

Welsh Government office

Sarn Mynach

Llandudno Junction

LL31 9RZ

<https://careinspectorate.wales>

© Crown Copyright 2022: This report may be re-used free of charge in any format or medium provided that it is re-used accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the report specified.

What is the purpose?

This provides further guidance for inspectors to use for reference during inspection alongside the sector guidance for inspection, to support specific lines of inquiry.

For whom is it intended?

For all inspectors of non-maintained settings

From when should the guidance be used?

Date of publication: 10/10/2022

Contents

Supplementary guidance.....	4
Introduction	4
Establishing whether a child under compulsory school age has ALN.	6
Additional Learning Needs and the guidance handbook for inspecting care and education in regulated non-school settings eligible for funding for part-time education	7
Role of the Early Years Additional Learning Needs Lead Officer (EYALNLO)	9
Individual Development Plan (sometimes called a unified plan).....	9
Welsh language	10
Useful questions.....	10

Supplementary guidance

Our key documents that guide inspection activity are the joint inspection guidance handbooks. However, we also produce supplementary guidance to help inspectors to consider specific aspects of education and childcare.

The supplementary guidance documents set out some key principles, considerations and resources for inspectors. They expand on certain aspects of education/childcare (e.g. the inspection of literacy) or on ways of conducting inspections. Care inspectorate Wales inspectors will consider all age groups cared for at the setting including out of school care.

The supplementary guidance documents do not aim to be comprehensive. Inspectors are not required to work through them exhaustively when covering any specific aspect on an inspection. However, inspectors may find them useful when responding to specific emerging questions that arise during inspections or when they wish to reflect or investigate further.

The supplementary guidance documents may help providers gain an understanding of our inspection arrangements. They may also be helpful to providers in evaluating specific aspects of their own provision.

Our inspection work is based on the following principles:

- Inspectors will approach inspection with a positive mindset to ensure it is the best possible professional learning experience for the staff in each setting
- Inspectors will take a child-focused approach to inspection
- Inspectors will seek out well-considered innovative practice
- Inspectors will tailor the inspection activities according to the circumstances in each setting as far as possible
- Inspectors will be agile and responsive to emerging findings and will use the increased range of inspection tools and approaches available
- Inspectors will consider everything in the inspection framework, but will only report on the key strengths and weaknesses within each setting

Introduction

This guidance supports inspectors in evaluating the outcomes and provision for learners who have **additional learning needs (ALN)**. It includes helpful information to support the inspection of outcomes and provision for learners with ALN.

Inspectors should use this guidance alongside the Joint Inspection Guidance handbook for inspecting care and education in regulated non-school settings eligible for funding for part-time education.

Inspectors should also familiarise themselves with **The Additional Learning Needs Code**, issued under the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (“the Act”).

The Act, together with this Code and regulations made under the Act, provides the statutory system for meeting the additional learning needs (ALN) of children and young people. It places the children’s views, wishes and feelings at the heart of the process of planning the support required to enable them to develop effectively and achieve their full potential.

ALN Reform

The Additional Learning Needs and Education Tribunal (Wales) Bill was passed by the National Assembly for Wales in December 2017. The legislation received Royal Assent in January 2018 and became the [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018](#) (‘the Act’: National Assembly for Wales, 2018). The Act made provision for a new statutory framework for supporting children and young people with ALN.

Under the Act, the term special educational need (SEN) was replaced with the term additional learning need (ALN). The term ‘special educational provision’ was replaced with ‘additional learning provision’. The implementation of these changes was originally scheduled to take place over a three-year period, from September 2020 to August 2023 alongside delivery of the wider ALN transformation programme. However, due to the impact of the COVID-19 pandemic, this period did not commence until September 2021. During the implementation period existing SEN legislation continues to apply and will continue to do so until the implementation period is concluded.

Over recent years, there has been variation in how settings and local authorities (LAs) have used the terms ‘SEN’ and ‘ALN.’ During the implementation period, it is likely that there will continue to be inconsistency in the terminology used by different schools and settings. In particular, the term SEN may still be used during the period of implementation for those children/learners who have a statement of SEN rather than an individual development plan (IDP). Inspectors should not focus on the terminology used. Instead, they should evaluate how well the setting plans, monitors and reviews provision for all children who have ALN.

Iaith Pawb, the Welsh Assembly Government’s action plan for a bilingual Wales, acknowledges the right of children with ALN to receive provision in the language of their choice as set out in the revised special educational needs Code of Practice for Wales (2004).

The ALN Code for Wales contains statutory guidance schools, further education institutions, local authorities, NHS bodies and others on the additional learning needs system. You can find the Code here: The [Additional Learning Needs Code for Wales 2021](#).

All non-maintained early years education providers in receipt of local authority funding must have regard to the guidance set out in the ALN Code. Where a child receives nursery education funded by a local authority at a non-maintained provider, the provider should, where requested, help the local authority in the exercise of its ALN functions in relation to that child, including in instances where a child receives nursery education from both maintained and non-maintained providers.

Establishing whether a child under compulsory school age has ALN.

The application of the tests to establish whether a child under the compulsory age has ALN is slightly different to those who are of compulsory school age.

The first test is still whether the child has a learning difficulty or disability, but the meaning of that is slightly different. It is whether the child, when of compulsory school age, is, or would be if no ALP were made, likely to have

- i. a significantly greater difficulty in learning than the majority of others of the same age, or
- ii. a disability (within the meaning of the Equality Act 2010) which prevents or hinders the child from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools.

The second test is also the same as that for older children and young people, namely whether the learning difficulty or disability calls for ALP. However, for children aged under three, ALP means educational provision of any kind. For those aged 3 and over, ALP has the same meaning as for children of compulsory school age and young people (as set out above). The definition of ALP for children aged under three is slightly different to reflect the fact that these children are not at an age where maintained education is routinely available.

ALP for those aged under three can take many forms; for instance, group work or individual support - where it is educational provision of any kind. This might include, for example, educational provision in Flying Start or specialist health, physical, communication or sensory support. This can take place in an education setting or elsewhere.

Additional Learning Needs and the guidance handbook for inspecting care and education in regulated non-school settings eligible for funding for part-time education

Inspectors need to report on the effectiveness of the setting's additional learning needs provision as part of **Theme 3 'Care and development'** in the guidance. This theme relates to provision for all children between 0 and 12 who may attend the setting. However, inspectors should consider the effectiveness of the provision for children with ALN under all inspection themes.

It is the responsibility of the Estyn and CIW inspectors to gather evidence to support the evaluation on the effectiveness of the setting's ALN provision. Inspectors should consider supporting evidence from a range of sources before reaching a judgement on this.

In section **3.3 'How well do practitioners promote children's development and meet their individual needs?'**, inspectors should evaluate the effectiveness of the setting's ALN provision by considering:

- the extent to which the setting offers children with ALN full access to all areas of learning
- how well the setting identifies, assesses and responds to children's individual needs
- how well the setting integrates, supports and provides for children with ALN, so that they make good progress in line with their stage of development
- the extent to which practitioners understand and respond to meeting individual needs
- how effectively the setting conducts regular person-centred reviews of children's progress that include parents/carers and all relevant multi-agencies
- the use of and contribution from specialist services such as the Early Years ALN lead officer, health, psychological, portage and social services.

In September 2021, we made a few changes to the joint inspection framework to better reflect the importance of evaluating the provision for ALN in nearly all the **six themes**. The reporting of ALN will continue to feature mainly in Theme 3 but inspectors could note relevant information in the evidence base for other themes as well as reporting on this in the main evaluation. For example, inspectors may report on how leaders have improved ALN provision or conversely, if the ALN provision at the setting is poor, in Theme 6

Themes 1 and 2 – Wellbeing and Learning

We have avoided adding a statement to Themes 1 and 2 for fear of identifying individual children in the report. However, you would report on the impact of the setting's provision on **all** children, including those with ALN. Inspectors could note any relevant observations or information in the evidence base for both themes in

order to support the judgement for Theme 3 – there is an expectation that **all** inspectors contribute evidence to all themes wherever that's appropriate.

Theme 4 – Teaching and assessment

- **4.1 How well do practitioners plan learning experiences that meet the needs of children?** No changes to 4.1 although it is implicit in the text that practitioners plan learning and play experiences to meet the needs of **all** children.
- **4.2 How well do practitioners teach and assess children?** The following statements remain in the guidance and relate well to the new ALNET Act:

Inspectors should evaluate the extent to which practitioners:

have up-to-date knowledge of child development and the impact of *additional learning needs on development*

have high expectations of all children, *including children with additional learning needs*, more able and talented and children with English as an additional language

Assessment

Inspectors should evaluate the extent to which the setting's procedures are manageable and enable practitioners to:

- assess children regularly and carefully and record observations and assessments *that identify children's strengths, areas for improvement and progress, effectively*
- use the outcomes of assessments to plan future activities that meet children's needs and interests, *including the provision of extra support where necessary*
- *engage with parents/carers* in order to gain an individual perspective of each child's strengths and areas for development

Theme 5 – Environment

5.2 How well do leaders ensure the suitability and use of the premises?

- Inspectors should consider the extent to which all children, *including those with additional learning needs have equal access to the setting's facilities, resources and activities.*

Inspectors should evaluate whether there is sufficient space and facilities to meet the needs of children, *including those with additional learning needs*

Theme 6 – Leadership and management

It is implicit in the text for Theme 6 that leadership and management is responsible for ensuring high quality provision for **all** children, including those with ALN. Inspectors may record the impact of leaders on the ALN provision in Theme 6, particularly if it is excellent or conversely, poor. However, we have included a statement directly related to ALN in 6.4.

- **6.4 How effective are partnerships?** Inspectors should consider how well the setting is clear about its role and responsibilities to establish trust and clear communication between partners. Inspectors should also consider how well the setting works with parents/carers, Early Years Additional Learning Needs Lead Officer and other partners to support children with additional learning needs.

Role of the Early Years Additional Learning Needs Lead Officer (EYALNLO)

Local Authorities have a significant role in supporting Early Years providers (please see Chapters 10 and 11 of the Code for further information), including non-maintained settings, in meeting the requirements of the ALN code. Each local authority now need to have an Early Years Additional Learning Needs Lead Officer (EYALNLO) to fulfil its obligations under the act.

The local authority EYALNLO will have an important part to play in improving the early identification of needs; establishing referral routes and raising awareness among multi-agency partners; ensuring better planning for future provision; and helping ensure the early years workforce has the appropriate skills, mechanisms and tools to support young children with ALN. **Inspectors should note that it is no longer an expectation that non-maintained nursery settings should have their own additional learning needs coordinator (ALNCO).**

Individual Development Plan (sometimes called a unified plan)

Individual development plans (IDPs) will replace statements of special educational needs (SEN) and individual education plans (IEPs) for children currently supported through Early Years Action or Early Years Action Plus.

If the provider suspects that a child may have additional learning needs (ALN), it could refer that child to the local authority. The local authority will decide whether the child has ALN and, if so, put an IDP in place.

There is a general duty to involve children and their parents in decisions that relate to any ALN they might have and the preparation of IDPs. Furthermore, putting the child at the heart of the process that identifies their ALN and determines their ALP is a fundamental objective of the ALN system.

If the local authority decides that the child has ALN, it must prepare an IDP for the child. Before the IDP is completed, the local authority should give the parent an opportunity to comment on a draft of it and should encourage them to raise any concerns as soon as possible. The local authority should consider any concerns and act upon them appropriately, which may be to update the draft IDP, or explain decisions or other matters further. Once prepared, the local authority must give a copy of the IDP to the child's parent.

Welsh language

Providers will be required to consider whether a child or young person needs ALP in Welsh; this duty will be an ongoing one, rather than a one-off decision. If they do, this must be documented in the IDP and 'all reasonable steps' must be taken to secure the provision in Welsh. A mechanism is included in the Act to remove by regulations the 'all reasonable steps' test, so that the duties to provide ALP through the medium of Welsh become absolute over time.

Useful questions

Questions for the leaders

How aware is the setting of the mandatory ALN code and how it impacts them?

How aware is the setting that their local authority has a designated Early Years Additional Learning Needs Lead Officer (ALNLO) and are they aware of how the officer's role impacts on them?

How aware is the setting of what information the LA has shared with parents regarding ALN, the LA EYALNLO and the ALN system?

Has the setting received information or training from the LA that enables them to help the local authority in the exercise of its ALN functions in relation to a child that has ALN?

- Has the training made them aware of the principles underpinning the ALN system and how this impacts on them (rights-based approach; early

identification, intervention and integration; collaboration and integration; inclusive education; a bilingual system).

- Has the setting received information or training from the LA that enables them to understand the definition of ALN and to identify whether a child under compulsory school age has ALN? (how confident are they in doing so?)
- What training and support has the setting received to support the local authority in meeting the requirements of an IDP?
- What training and support has the setting received to support the local authority to ensure that relevant transition information is included in the IDP when a child leaves the setting?
- Has the setting received information or training from the LA that enables them to be aware of the wide range of learning difficulties or disabilities covered by the code?
- Has the local authority ensured independent advocacy services are known to the setting and parents/carers in order avoid and resolve any disagreements regarding ALN support or ALP at the earliest opportunity?
- Is the setting aware that services including non-maintained settings, will be required to consider whether a child or young person needs ALP in Welsh?