



Llywodraeth Cymru
Welsh Government

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Additional learning needs (ALN) and education otherwise than at school (EOTAS)

Guidance on how the ALN Act and the ALN Code apply to learners receiving education otherwise than at school.

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Introduction

This non statutory guidance is based on the provisions of the **Additional Learning Needs and Education Tribunal (Wales) Act 2018**

(<https://www.legislation.gov.uk/anaw/2018/2/contents>) ('the ALN Act'). It supplements the statutory **Additional Learning Needs Code for Wales 2021** (<https://www.gov.wales/additional-learning-needs-code>) ('the ALN Code').

It does not alter the principles or statutory requirements of the relevant legislation. Instead, it provides information to:

- enhance understanding of how the ALN Act and the ALN Code apply, specifically to learners receiving education otherwise than at school (EOTAS)
- strengthen implementation in practice across Wales

It has been co-developed with local authorities in response to the ALN legislative review. The review identified areas for improved clarity, consistency and understanding in the application of the ALN legislative framework.

This guidance may be updated or withdrawn at any time to reflect:

- changes in legislation
- policy developments
- emerging evidence of effective practice

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

Who this is guidance for

This guidance is intended for:

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- local authorities
- governing bodies of maintained schools
- management committees of pupil referral units
- further education institutes (FEIs) in Wales
- other professionals supporting children and young people with ALN

It may also be of interest to professionals from other sectors who support learners receiving EOTAS.

Relevant legislation and guidance

Additional Learning Needs and Education Tribunal (Wales) Act 2018

(<https://www.legislation.gov.uk/anaw/2018/2/contents>) ('the ALN Act') (Section 53)

The Additional Learning Needs Code for Wales 2021 (<https://www.gov.wales/additional-learning-needs-code>) ('the ALN Code') (Chapter 18)

The Education Act 1996 (<https://www.legislation.gov.uk/ukpga/1996/56/section/19A>) (Section 19A)

Education otherwise than at school (EOTAS): Framework for Action

(<https://www.gov.wales/education-otherwise-school-eotas-framework-action>) (September 2019)

Supporting learners with healthcare needs (<https://www.gov.wales/supporting-learners-healthcare-needs-0>) guidance. (March 2017)

Designing your curriculum (<https://hwb.gov.wales/curriculum-for-wales/designing-your-curriculum/education-other-than-at-school-eotas/#key-features-of-eotas-provision>): Education other than at school (EOTAS), Welsh Government guidance (Hwb)

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An overview of EOTAS settings and provision

Education otherwise than at school (EOTAS) is an umbrella term to describe a range of educational settings other than schools. It is arranged by local authorities and delivers education for learners who are unable to attend school.

Learners could be referred to EOTAS provision for various reasons and for different lengths of time. Some EOTAS provisions are designed for a defined period and operate as a 'turnaround' arrangement. In these cases, the learner:

- attends an EOTAS setting for a set time
- remains enrolled at their school
- returns to their original setting

In other instances, EOTAS may be required for a longer duration. For example where a learner has ongoing, complex medical needs.

Some learners may need a bespoke EOTAS provision. This may happen, for example, when:

- the learner has been excluded from school
- their needs are complex and require specialist, bespoke provision
- the local authority commissions or directly provides education to meet those needs

Examples of this could be:

- care experienced learners with complex needs
- learners known to Youth Offending Services

Some learners may access EOTAS due to:

- poor mental health, such as anxiety
- health issues where the prognosis is unknown

However, EOTAS should not be the default position for addressing the needs of learners with mental health issues.

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Key features of EOTAS provision

In all education settings, including EOTAS settings, curriculum design should be underpinned by the **principles of curriculum design** (<https://hwb.gov.wales/curriculum-for-wales/designing-your-curriculum/principles-for-designing-your-curriculum/>).

Learners who attend EOTAS settings face considerable barriers to learning. They attend these settings for diverse reasons. Many have experienced challenges in their lives that are greater than those faced by their peers.

Therefore, EOTAS curriculum planning, design and implementation should be strengthened by the following elements:

- nurturing and strengthening the health and well-being of each learner
- systematic collaboration between learner, parents or carers, school, and EOTAS providers
- access to an inclusive curriculum that focuses on the individual needs of each learner
- supporting the reintegration into or transition of learners receiving EOTAS to mainstream or specialist provision
- enabling them to progress towards further education, training, or the world of work

Common types of EOTAS settings in Wales

Pupil referral units

Pupil referral units (PRUs) provide short or medium-term placements for learners. They aim to reintegrate learners back into school or prepare them for further education, training or employment.

A PRU is distinctly different to a maintained school. However, for the purposes of the ALN Act, PRUs are defined as a maintained school. This ensures that their management committees have the same functions relating to ALN as

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governing bodies of maintained schools under the ALN Act and the ALN Code.

Tuition

This could include providing one-on-one instruction:

- to a pupil, in their home or another suitable location
- as a small group
- community-based tuition

Further education institutions

Learners referred for EOTAS may attend further education institutions (FEIs) for vocational training or academic study.

Independent schools

Local authorities may commission EOTAS provision for a learner at an independent school.

Independent schools that accept learners with an individual development plan (IDP) **must be registered** (<https://www.legislation.gov.uk/ukpga/2002/32/section/158>) with the Welsh Government to provide the particular type of additional learning provision described in their IDP.

Work-related education and training

EOTAS may include careers and work-related experiences aimed at developing vocational skills.

Other settings

EOTAS provision can also take place in a variety of other settings, such as:

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- online schooling
- hospital schools
- voluntary or community organisations

Schools or other educational settings **must be registered**

(<https://www.legislation.gov.uk/ukpga/2002/32/section/158>) as an independent school if they provide full time education for either of the following:

- 5 or more pupils of compulsory school age
- at least one pupil of compulsory school age with an IDP

The Welsh Government expect local authorities to use registered settings to meet the educational needs of learners requiring EOTAS. However, there may be circumstances when using the facilities available in unregistered settings is appropriate for part of a learners' education. If a setting is providing all of the child's education, it must be registered.

Local authorities may also commission EOTAS provision in settings outside of Wales. This might include schools or settings registered with the Department of Education (DfE) and inspected by an appropriate body (such as Ofsted).

Local authority panels would need to make informed decisions in each individual case. They would need to be assured that each setting is suitable to meet the learner's educational, wellbeing and safeguarding needs.

Duties and responsibilities

Under **section 19A of the Education Act 1996** (<https://www.legislation.gov.uk/ukpga/1996/56/section/19>), local authorities have a duty to make arrangements for the provision of suitable education for children of compulsory school age who are unable to attend school for reasons such as:

- illness
- exclusion
- other circumstances where they may not receive suitable education in the

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absence of such arrangements

Suitable education means an efficient education suitable to the child's:

- age
- ability
- aptitude
- any additional learning needs the child may have

Local authorities also have a power to do the same in relation to **young people** (<https://www.legislation.gov.uk/ukpga/1996/56/section/579>) (over compulsory school age but under the age of 18).

Duties

For children and young people with ALN who receive EOTAS provision, either the management committee of the PRU or the local authority will have duties and responsibilities in relation the ALN system.

Chapter 18 of the ALN Code explains these responsibilities in more detail (see paragraph 18.9 to 18.16).

Other relevant legislations include:

- Chapter 17 of the ALN Code
- Regulations 7 to 9 of the Additional Learning Needs (Wales) Regulations 2021
- Schedule 1 of the Additional Learning Needs (Wales) Regulations 2021

These set out how to decide whether a young person not registered at a maintained school in Wales nor enrolled as a student at an institution in the FEI in Wales:

- has reasonable needs for education or training
- whether it will be necessary to prepare and maintain, or continue to maintain, an IDP for the young person

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Additional learning provision for learners receiving EOTAS

Local authorities should use the definition from [section 3 of the ALN Act](https://www.legislation.gov.uk/anaw/2018/2/section/3) (<https://www.legislation.gov.uk/anaw/2018/2/section/3>) and apply it to the individual need and circumstance. There is no specific or different legal definition for additional learning provision (ALP) in EOTAS settings.

If a learner cannot receive suitable education at a school because of their ability to learn, then these needs should be reflected in section 2A of the IDP. This could include:

- behaviour
- emotional and social development needs (see paragraph 2.37 of the ALN Code)

When completing an IDP for a learner receiving EOTAS, the ALP in section 2B should directly correspond with the ALN described in section 2A. Only the ALP that is required to meet the identified ALN should be described in the IDP.

The ALP that best meets the ALN of the learner may be different depending on the type of setting they attend. EOTAS settings vary and so does the type of education they provide.

The different nature of both the setting and the education provided in an EOTAS setting may therefore be considered when preparing or reviewing the IDP.

Chapter 23 of the ALN Code provides further guidance on how to complete an IDP. It highlights the need for each ALP to be outcome focused.

IDPs may be reviewed at any time, and in cases of an unexpected transition, an IDP review could be appropriate to consider whether the ALP remains appropriate in the new setting.

The responsible body should therefore consider reviewing an existing IDP before or shortly after a learner begins receiving EOTAS provision. The IDP may

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then be revised to reflect the change of setting or to include additional or different ALP (see below for information on which body is responsible in different scenarios).

Difference between elective home education (EHE) and education otherwise than at school (EOTAS)

Education otherwise than at school (EOTAS) is education provision, provided or commissioned by the local authority. It is provided to meet specific needs of learners who, for whatever reason, cannot attend a mainstream or special school. While maintained schools have powers to fund or refer pupils for external provision, this does not constitute formal EOTAS.

Elective home education (EHE) is the term used when a parent has made the decision to educate their child themselves, instead of sending them to school. Home-educated children will no longer be registered on a school's roll (admissions register). Parents who choose to home educate their child take on the legal responsibility of delivering a '**suitable education** (<https://www.legislation.gov.uk/ukpga/1996/56/section/7>)'.

It is important that the parental decision to home educate is a positive choice. Where children are becoming disengaged from their education, local authorities are expected to work with the learner and their family to:

- understand whether they need additional support
- consider securing ALP

Do all learners receiving EOTAS require an individual development plan (IDP)

An IDP is not required to receive EOTAS provision.

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Learners receiving EOTAS may have ALN. If brought to their attention, the PRU or local authority will be under a duty to decide whether the learner has ALN. Only learners who meet the legal test for ALN will require an IDP.

Guidance sets out how maintained schools (including PRUs) and local authorities should ensure transparent, evidence-informed decision-making and communication.

Learners receiving EOTAS may be unable to attend or engage in education for reasons related to their ALN. These learners should continue to have an IDP maintained for them. This will likely require an early review to ensure that its contents, in particular the ALP that it contains, are appropriate in the context of the child or young person's new circumstances.

How local authorities assure the quality of educational provision, including additional learning provision (ALP), in EOTAS settings

Local authorities are required to quality assure the educational provision delivered in EOTAS settings. This includes any ALP described in an IDP it maintains for a child or young person with ALN.

Typically, the EOTAS setting will be a registered provider. This enables Estyn to inspect the setting and the education it delivers.

If local authorities use unregistered settings to deliver part of the child or young person's EOTAS, including part of the learners ALP, they are responsible for:

- ensuring its quality
- taking steps to provide that assurance

EOTAS quality assurance guidance

The EOTAS commissioning and referral framework guidance will be published in

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2027 and will support local authorities in carrying out quality assurance of EOTAS provision.

The guidelines will outline the expectations for any organisation providing services to learners whose education is maintained by the local authority around:

- education
- safeguarding
- wellbeing

It will:

- offer clear guidelines for organisations wishing to deliver EOTAS services
- support local authorities in this process

EOTAS for learners over 16

Local authorities have a power to provide EOTAS provision for young people (over compulsory school age but under the age of 18).

Section 19A(4) of the Education Act 1996 states that:

“ A local authority in Wales may make arrangements for the provision of suitable education otherwise than at a school for young persons within the authority's area who, by reason of illness, exclusion from school or otherwise, may not receive a suitable education for a period unless such arrangements are made for them. ”

Section 53 of the ALN Act (<https://www.legislation.gov.uk/anaw/2018/2/section/53>) enables a local authority to arrange for ALP to be made as EOTAS. The following must apply:

- the ALP is for a child (of compulsory school age)
- the local authority must be satisfied that it would be inappropriate for the ALP

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to be made in a school

Young people over 18 and up to 25 years with ALN may continue to have an IDP maintained for them. The local authority must continue to maintain the IDP, unless and until any of the circumstances occur which result in the duty to maintain it ceasing. These are set out in Chapter 29 of the ALN Code. However, these learners (18 to 25) are not entitled to EOTAS provision.

Scenarios

Child or young person remains registered with school or FEI

A child or young person may remain registered as a pupil at a school or FEI whilst receiving EOTAS provision. In this situation, the school or FEI would continue to maintain the IDP unless the local authority decides to take over responsibility for maintaining the IDP or is already maintaining the IDP.

For example, a child may remain a registered pupil whilst receiving individual tuition at home or in hospital due to sickness. In this example, the local authority may decide it appropriate to take over responsibility for maintaining the IDP.

Local authority maintained IDP

Learner who already has an IDP before receiving EOTAS

A school or FEI's duty to maintain an IDP for a learner will cease if the child or young person ceases to be a registered pupil or enrolled student.

In this case, the responsible local authority is likely to be subject to the duty to decide whether the child or young person has ALN. If it decides that the child or young person does have ALN, the duties to prepare and maintain an IDP are likely to apply.

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The local authority ought to be able to do these things quickly in light of the previous IDP.

Pupil referral unit

If a child or young person with a school maintained IDP immediately becomes a registered pupil at a PRU, then the PRU's management committee will become responsible for maintaining the IDP.

Learner who does not yet have an IDP receiving EOTAS

If a child or young person without an IDP is educated through EOTAS (but are not at a PRU) and it is brought to the attention of, or otherwise appears to the responsible local authority that the child or young person may have ALN, the local authority must decide whether the child or young person has ALN. This is unless an exception applies. In this scenario, if the local authority decided the child or young person does have ALN, they must prepare the IDP under their general timescales (promptly, or in any event before the end of the period of 12 weeks).

Dual registered

A child or young person may become a dual registered pupil, with both the school and PRU providing education. In this circumstance, as a dual registered pupil, the local authority must become responsible for maintaining the IDP. See paragraph 28.11 of the ALN Code for more information.

Glossary and legal definitions

This section contains a glossary of terms and legal definitions used throughout this guidance.

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Additional learning needs (ALN)

(Section 2 of ALN Act)

1. A person has additional learning needs if he or she has a learning difficulty or disability (whether the learning difficulty or disability arises from a medical condition or otherwise) which calls for additional learning provision.
2. A child of compulsory school age or person over that age has a learning difficulty or disability if he or she:
 - a. has a significantly greater difficulty in learning than the majority of others of the same age, or
 - b. has a disability for the purposes of the Equality Act 2010 (c.15) which prevents or hinders him or her from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools or mainstream institutions in the further education sector.
3. A child under compulsory school age has a learning difficulty or disability if he or she is, or would be if no additional learning provision were made, likely to be within subsection (2) when of compulsory school age.
4. A person does not have a learning difficulty or disability solely because the language (or form of language) in which he or she is or will be taught is different from a language (or form of language) which is or has been used at home.

Additional learning provision (ALP)

(Section 3 of the ALN Act)

1. Additional learning provision” for a person aged three or over means educational or training provision that is additional to, or different from, that made generally for others of the same age in:
 - a. mainstream maintained schools in Wales
 - b. mainstream institutions in the further education sector in Wales, or
 - c. places in Wales at which nursery education is provided

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2. Additional learning provision” for a child aged under three means educational provision of any kind.
3. In subsection (1), “nursery education” means education suitable for a child who has attained the age of three but is under compulsory school age.

Education otherwise than at school

(Section 19A (1) of the Education Act 1996)

Each local authority in Wales must make arrangements for the provision of suitable education at school or otherwise than at school for children within the authority's area who:

1. are of compulsory school age, and
2. by reason of illness, exclusion from school or otherwise, may not receive suitable education for a period unless such arrangements are made for them

Full time education

Although there is no legal definition of ‘full time education’ in Wales, local authorities should be considering the following relevant factors when determining whether the education provided for a particular learner is ‘full time’ education.

The factors include:

- the number of hours per week that is provided, including breaks and independent study time
- the number of weeks in the academic term or year the education is provided
- the time of day it is provided
- whether the education provision in practice precludes the possibility that full-time education could be provided elsewhere
- access to a broad and balanced curriculum

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Individual Development Plans (IDPs)

(Section 10 of the ALN Act)

For the purposes of this Act, an individual development plan is a document that contains:

- a description of a person's additional learning needs
- a description of the additional learning provision which the person's learning difficulty or disability calls for
- anything else required or authorised by or under this Part

Learner

In this guidance, “learner” is used generally to refer to any child or young person reviewing education or training.

Parent

(**section 576 of the Education Act 1996** (<https://www.legislation.gov.uk/ukpga/1996/56/section/576>))

1. In this Act, unless the context otherwise requires, “parent,” in relation to a child or young person, includes any person:
 - a. who is not a parent of his, but who has parental responsibility for him, or
 - b. who has care of him

Pupil

In this guidance, “pupil” means a person for whom education is being provided at a school for a child or to a young person who has not reached the age of 19 years.

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Suitable education

(Section 436A of the Education Act 1996)

“ In this Chapter, “suitable education” in relation to a child [of compulsory school age], means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have (in the case of a local authority in England) or suitable to the child’s age, ability and aptitude and to any additional learning needs the child may have (in the case of a local authority in Wales). ”

Contact details

Additional Learning Needs Reform Branch
Support for Learners
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Cardiff
CF10 3NQ

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

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