

Young Person's Name	Young Person
Date of Birth	2007
Appeal of:	Young Person
Against Decision of	Local Authority (LA)
Date of hearing	2026

Persons present:	Counsel	LA representative
	Lead Officer ALN	LA representative
	Principal Educational Psychologist (PEP)	LA Witness
	Advocate	Appellant's representative
	Young Person	Appellant
	Observer	Observer

APPEAL

1. The Young Person brings this appeal on their own behalf. They are referred to in this decision as the Appellant or as the Young Person, in accordance with their preference.

2. The appeal is made under section 70 (2)(l) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (the Act) against: i) a decision by a further education institution or a local authority about whether a child or young person has additional needs (ALN) ii) the description of the Young Persons additional learning needs (ALN) in an individual development plan (IDP) (including planned start, review and end dates), iii) a decision to stop maintaining an IDP.

3. The respondents are the Local Authority (LA) who maintained an IDP for the Young Person until it was ceased in 2024.

4. The Appeal Application is dated January 2025 and was issued by the Young Persons Parent. Two issues arose with the application. Firstly, at the date of issue the Appellant was a 'young person' within the

meaning of the Act, namely a person over compulsory school age, but under 25. Secondly, the appeal had been issued outside the time limit for issue as prescribed by regulation 10 of the Education Tribunal for Wales Regulations 2021 (ETW regulations).

5. These issues were addressed at a case management hearing held on 28th March 2025. Given that section 70(2) of the Act does not give a parent a right of appeal on behalf of a young person then the appeal was to be made in the Young Persons name as the appellant with their Advocate on the record as their representative. Permission was also granted for the appeal to be brought out of time.
6. Further in December 2025 permission was granted, upon the application of the Appellant, for the issue of a witness summons to secure the attendance of the Principal Educational Psychologist (PEP), at the appeal hearing, the PEP duly attended in answer to the summons.
7. The hearing was conducted remotely. The Young Person was in attendance for some of the hearing but, by agreement, did not appear on camera. The Young Persons Parent attended as an observer.

FACTS

8. The Young Person was born in 2007. They are now 19 years of age.
9. The Young Person has complex additional learning needs comprising, autistic spectrum condition, ADHD, oppositional defiance disorder, moderate learning difficulties, sensory processing disorder, pathological demand avoidance, social and emotional communication difficulties.
10. A statement of special educational needs was initially written by the LA in 2017. The Young Person attended School A before moving to School B for the first year of their secondary education. The Young Person and their family then moved to a different LA in 2019. The LA accepted responsibility for the statement of special educational needs which was subsequently converted to an IDP.
11. From September 2019 the Young Person attended the LA's alternative provision for social and emotional needs known as School C. School C then merged with School D, a local special school, in September 2021 and became known as School E.

12. The Young Person found attending school to be a challenge and they were referred to a service designed to support reengagement into education. Although the Young Person found parts of the service to be useful it did not lead to reengagement with education.
13. The Young Person left statutory education in 2023 with no qualifications and virtually no attendance for four years. They have not been in formal education or training since that time.
14. A referral was made to a charitable organisation, in the hope that the agency could assist the Young Person to build self-confidence by building a rapport with a trusted adult and to develop skills to assist in accessing further education. However, the programme which was provided through the charitable organisation was discontinued in 2024. The Support Worker identified a family support service, as a possible alternative option for the Young Person.
15. Given that the Young Person by this time was no longer a registered pupil at a maintained school nor enrolled as a student at a Further Education College, the LA was considering whether it should continue to maintain the IDP. Initially the LA sought to obtain the Young Persons consent to maintaining the IDP. This consent was not immediately forthcoming until the Young Persons Advocate indicated in August 2024 that the Young Person consented to the IDP and to the ALN process.
16. A person centered meeting was convened in September 2024 although the Young Person did not engage, various outcomes were discussed. Following this meeting the LA concluded that Support Services could not provide the ALP in the Young Persons IDP and that as such the IDP should be ceased.
17. By letter dated October 2024 the Young Person was notified that the LA intended to cease maintaining their IDP 'within 8 weeks' of the date of the letter. The IDP was accordingly ceased in December 2024. No appeal was made within the eight week period.
18. The Young Person now appeals this decision; permission having been given for the appeal to be issued out of time.
19. The scope of the appeal is set out at paragraph 2 above and each aspect is addressed below.

TRIBUNAL'S DECISION WITH REASONS

20. We have carefully considered all the written evidence and submissions presented to the tribunal prior to the hearing and the oral evidence and submissions given at the hearing. We have also considered the relevant provisions of the Act and of the Additional learning Needs Code for Wales 2021 (the Code).
21. We have also had regard throughout the proceedings to section 6 of the Act containing the "Duty to involve and support children, their parents and young people".
22. There are three grounds of appeal identified in the Appeal Application, two of which can be dealt with in fairly short order. The first ground is an appeal against 'a decision by a further education institution or a local authority about whether a child or young person has additional learning needs (ALN).
23. There is no basis for an appeal under this ground as the LA has not made any decision about the Young Persons additional learning needs. The decision to cease the IDP is not based upon the Young Person no longer having any ALN. The LA acknowledges that the Young Person continues to have ALN and that these needs are unchanged. This aspect of the appeal is dismissed.
24. The second limb of the appeal concerns the description of the Young Persons ALN. This aspect of the appeal is also dismissed as there is no IDP currently in force containing a description of the Young Persons ALN.
25. Section 33(4) of the Act provides that when a decision is made to cease an IDP, then the IDP does not cease until the time for bringing an appeal has elapsed or if an appeal has been brought within the prescribed time period, until that appeal has been finally determined. In this instance the time for bringing an appeal had elapsed in December 2025
26. Section 70(1)(b) of the Act provides that a right to appeal under section 70(2) of the Act applies to 'individual development plans prepared or maintained by the governing body of an institution in the further education sector in Wales or a local authority'. In this case there is no IDP in existence. The fact that the President granted permission for the appeal to be issued out of time does not of itself resurrect the ceased IDP.

27. The appeal therefore is confined to the question of whether the LA should prepare and maintain an IDP for the Young Person.
28. Section 31 of the Act sets out when a local authority may cease to maintain an IDP. In this case the relevant provision is section 33(6) which reads, *"Where a local authority has a duty under this Part to maintain an individual development plan for a child or young person, the authority may cease to maintain the plan if the authority – (a) decides that the child or young person no longer has additional learning needs, or (b) in the case of a young person who is neither a registered pupil at a maintained school nor enrolled as a student at an institution in the further education sector in Wales, decides in accordance with regulations under section 46 that it is no longer necessary to maintain it to meet the young person's reasonable needs for education or training."*
29. The statutory provision in section 33 is reflected in Chapter 29 of the Code (The circumstances in which a local authority's duty to maintain an IDP ceases). The section relied upon by the LA is paragraph 29.5 (j) which states, *"In the case of an IDP maintained by a local authority for a child or young person, the local authority's duty to maintain the IDP ceases to apply in the following circumstances ... (j) in the case of a young person who is neither a registered pupil at a maintained school nor enrolled as a student at an FEI, the local authority decides that it is no longer necessary to maintain the IDP to meet the young person's needs for education or training and that decision has not been successfully challenged."*
30. The only live witness before the tribunal was the Principal Educational Psychologist, appearing in answer to a summons issued by the Appellant. The PEP had assessed the Young Person and compiled an Educational Psychology Advice dated September 2025. They had also prepared a witness statement dated October 2025.
31. The PEPs oral evidence reflected their written assessment. The Young Person presents with a range of complex interacting needs and as such continues to have additional learning needs. The PEP suggests that *"a working hypothesis given the information available is that the Young person would like to leave their home and engage in work, education or training. However, their significant anxiety impacts on their ability to do so. The Young Persons anxiety driven response of refusing or rejecting various opportunities has been a significant barrier to accessing health, care and education services that may support them. It is thought that the Young Person is becoming increasingly aware of their needs and*

appears very conflicted in themselves when speaking to those who know them best or care about them. They will often reject the idea of doing activities outside of the home, but in the same conversation can reflect on how they do not want to “just be in the house” and is often “fed up of being bored”.

32. It is suggested by the PEP that the Young Persons failure to pass their driving theory test may have prompted the Young Person to focus on gaining numeracy and literacy skills. The Young Person indicated to the PEP that they wanted to pass the test and that they realised that they needed to improve these skills to achieve this immediate goal.
33. The PEP sets out numerous suggestions for additional learning provision. However, as explained by the PEP, whilst in an ideal world the Young Person should have opportunities to develop functional literacy and numeracy skills, they first of all have to address their social presentation needs. The Young Person first needs to develop a relationship with a trusted adult to be able to gain confidence. Once they feel that they are in a safe place then it may be possible for the Young Person to make progress. If too much pressure is placed on the Young Person, then there is a high risk that they will reject any formal process. The Young Person has previously had a bespoke educational package at a special school but did not engage. As the PEP indicates “*the Young Person will need to be motivated to engage, or it is likely they will reject an offer or disengage shortly after it has been offered*”. *It is important that the Young Persons wishes are taken into account and that they are able to choose any educational offer.*
34. There is no dispute as to the nature and extent of the Young Persons additional learning needs. The appellants Advocate suggested that there may still be some unidentified needs, although there is no evidence to support the suggestion. The question that we must address is whether it is necessary for the LA to prepare and maintain an IDP for the Young Person. As the Young Person is not a registered pupil at a maintained school or enrolled as a student at an institution in the further education sector then the LA duty to prepare and maintain an IDP is qualified by the necessity test laid out in statute.
35. The statutory test is contained in section 14(1)(c) of the Act, which applies if a local authority is responsible for a child or a young person who is not a registered pupil at a maintained school or enrolled as a student at an institution in the further education sector. The subsection reads:

c) in the case of any other young person, the local authority – (i) decides under section 13 that the young person has additional learning needs and, ii) decides in accordance with regulations under section 46 that it is necessary to prepare and maintain a plan under this section for the young person to meet his or her reasonable needs for education and training.

36. The relevant regulations are The Additional Learning Needs (Wales) Regulations 2021 (the Regulations).
37. Chapter 17 of the Code (Duties on local authorities in relation to young people not at a maintained school or FEI) must also be considered.
38. Paragraph 17.27 of the Code confirms that *“This process, provided for by the regulations, also applies to the question of whether it is necessary for a local authority to continue to maintain an IDP for a young person to meet their reasonable needs for education or training or whether the local authority may cease to maintain it.”*
39. The issues to be addressed when considering whether to prepare and/or maintain an IDP are set out in Paragraph 17.31 which reads as follows; *The process provided for by the regulations, of determining whether an IDP is necessary to meet a young person’s needs for education or training (whether the question is whether an IDP needs to be prepared or whether an IDP should continue to be maintained) involves addressing the following matters:*
 - *what are the young person’s desired outcomes.*
 - *what provision (“programme of study”) may be available which would be suitable to enable the young person to meet those desired outcomes.*
 - *is it necessary for the local authority to prepare and maintain or continue to maintain an IDP for the young person.*
40. In addressing the above questions, regulations 6, 7 and 9 of the Regulations will need to be considered.
41. In the first instance a Local Authority must identify the young persons desired outcomes, if any. Outcomes are defined in regulation 6 as meaning *“outcomes related to preparing for work, progressing to other education, including higher education, or training opportunities or developing independent living skills or other useful skills or qualities for adulthood.”*

42. Paragraph 17.33 of the Code states, *“Outcomes are about enabling the young person to move towards long term aspirations, be they developing independent living skills, community participation, preparing for work, or progressing to other education (including higher education) or training opportunities.”*
43. The appellants Advocate records in a written submission that the Young Person wants to learn, improve their reading, writing comprehension and number skills and gain qualifications. The PEP also states that the Young Person expressed to them that they would like support learning Maths and English, although the PEP felt that this focus on literacy and numeracy skills was prompted by the experience of failing their driving theory test. In any event we are satisfied that desired outcomes have been identified.
44. The second step in the decision making process (paragraph 17.35) is identifying a potential programme of study which is defined in Regulation 6 as *“one or more courses of further education or training, whether or not leading to a qualification and in the case of more than one course, whether or not the courses are taken concurrently or in succession (but if in succession they must be part of an overall programme of study).”* The definition of a programme of study is also explained in paragraph 17.35 of the Code.
45. Regulation 7(2) states that the LA must consider what programmes may be available that would be suitable for enabling the Young Person to meet their desired outcomes. This is endorsed in paragraph 17.36 of the Code whilst paragraphs 17.38 to 17.48 address how the exercise of identifying a programme of study should be addressed.
46. The LA addresses potential programmes of study in its addendum case statement dated 7th May 2025. Three further education institutions are named, that could potentially provide courses to address the Young Persons desired outcomes. However, it is common ground that the Young Person currently is not able to undertake a formal programme of study and neither do they wish to do so. They have not attended formal education for some six years. As indicated by the PEP in their evidence, the Young Person firstly needs to establish a relationship with a trusted adult so that they can feel safe before they can make progress.
47. The tribunal has been provided with a document dated August 2024, entitled ‘Consent to IDP’ which was completed on behalf of the Young

Person by their Advocate. It is signed by the Young Person. The document records that the Young Person wishes for their IDP to continue and in terms of any education and training *“not in a college/school setting but in an informal and relevant way. they feel they would need 1:1 support and wants to engage in activities that would lead them to a job such as ASDAN qualifications.”*

48. In this regard the Young Person and their Advocate have identified a potential provider of a service to the Young person. The provider is registered with Care Inspectorate Wales as a domiciliary support service. The bundle contains a prospectus outlining the range of services delivered by the company, which includes a support service for young people aged 16 and above. The prospectus states *“ Our mission is to promote independence, enhance wellbeing, facilitate future planning and empower individuals to reach their full potential.”* It is also noted from e-mail correspondence that the service *“prides itself on being a trusted partner in delivering high-quality person centred planning”* and in addition is able to deliver learning opportunities accredited by ASDAN qualifications, although this information does not appear in the prospectus.
49. There is an e-mail in the bundle from the Assistant Manager at the provider which sets out programmes of learning and confirms that a placement is available for the Young Person for 12 months from May 2025.
50. During the course of this appeal the Adult Services team at the LA has completed an assessment of the Young Person in accordance with section 19 of the Social Services and Well-being (Wales) Act 2014. The assessment concludes as follows, *“The Young Person has been out of education and training for many years. They have declined or disengaged from support previously but have indicated more and more recently that they are ready to re-engage with support to help them build their independence and provide them with a sense of self-worth. It is a crucial time for the Young Person as they enter their adult life, it is important that the support they receive now is on their terms but is able to challenge them when required and help them grow as a person as they develop their identity. Ultimately the Young Persons goal is to be able to lead an independent life and have less professionals involved with them. They are capable of achieving this, but it will take time and patience from those supporting them to help them develop emotionally, academically and skill wise”*

51. As a result, a Care and Support plan has been formulated for the Young Person which provides for 10 hours per week support for the Young Person by the provider. Initially the Young Person and their Parent requested 12 hours support but upon reflection, all parties agreed that 10 hours a week was more sustainable at this stage.
52. The Young Persons social worker sets out the expectations for this type of support in their witness statement, *“Adult Services will expect the provider to support the Young Person to learn new skills that are vital to their independent functioning as an adult. These include rebuilding confidence in accessing their community, learning to use public transport, managing their money effectively, and how to prepare meals and understand and weigh up risk. Through the course of their work with the Young person, they will improve their literacy and numeracy through guided support and community activities as opposed to classroom based education and this will enable them to work towards their desired outcomes.”*
53. Unfortunately, the provider is yet to start engaging with the Young Person to provide this service and at present there is a lack of capacity within the organisation to be able to start work with the Young Person. Adult Services are therefore exploring other similar options.
54. Parts of the service provided by the provider may be educational in nature, but the service does not meet the definition of a programme of study required by the regulations.
55. It was argued in the Appellant’s case statement that the service provided by the provider is educational in nature and that it therefore amounts to a programme of study delivered by an ‘other institution’. This argument was not pursued by the Appellant’s Advocate in their submissions. The Appellants Advocate accepted that the only issue for the tribunal to decide was whether or not an IDP should be prepared and maintained for the Young Person.
56. The relevant sections of the Code in relation to the necessity test appear in paragraphs 17.58 onwards. The LA accordingly state that as no programme of study has been identified then there is no requirement to maintain an IDP.
57. There is no disagreement between the parties that the starting point in relation to preparing and maintaining an IDP is section 14 (1)(c) of the Act. The Appellants Advocate argues that this section does not qualify the test of necessity. They referred to paragraph 17.21 of the Code

which confirms that the same process applies to the duty to prepare an IDP as to the duty to maintain an IDP. The Appellants Advocate also referred to paragraphs 17.26 and 17.27 of the Code which they argue demonstrate that the process is needs led.

58. Paragraph 17.34 emphasises the need to consider the views, wishes and feelings of the Young Person. The Appellants Advocate states that the Young Persons desired outcomes are clearly set out in the psychological advice of the PEP and the social work assessment of the Social Worker. Both reports confirm that the Young Person wishes to re-engage with learning in a well-supported and sustainable manner. The Appellants Advocate argues that as they present with complex needs, then the support that the young Person requires cannot be provided in an informal and unstructured manner. The Young Person has profound anxiety and they will need to rely on a trusted adult. The Appellants Advocate argues that no proper educational analysis of the Young Person has ever been undertaken but that it is clear that educational institutions are not suitable for the Young Person.
59. The Appellants Advocate referred to paragraphs 17.58 -17.64 of the Code stating that the Young Persons case falls within the ambit of these paragraphs and that the purpose of these paragraphs is to prevent a young person like the Appellant from falling through the net. For the Appellants Advocate, paragraph 17.64 underlines the necessity for the LA to engage with the actual reality of the Young Persons situation and that there must be a framework for assessing progress and also a means to provide vocational skills.
60. The Appellants Advocate argued that the LA are abrogating their educational duties under s14 of the Act by stating that the Young Persons needs are now addressed through the care and support plan prepared by Adult Services. In their view the LA's educational duties and social care obligations go hand in hand and this collaborative duty is confirmed in various paragraphs of the Code.
61. It is acknowledged by the LA that the Young Person has additional learning needs. However, as they are a young person who are not a registered pupil at a maintained school in Wales or enrolled as a student at an institution in the further education sector, the duty to prepare and maintain an IDP only arises if it is necessary to do so. Paragraph 17.22 of the Code states *"Whether it is necessary for the local authority to prepare an IDP for a young person in any case will depend upon the circumstances. Just because the young person has*

ALN does not mean that the young person should have an IDP prepared by the local authority.”

62. We are satisfied that the LA has in this case followed the process set out in the Act and in the Code. The Appellant’s Advocate has been selective in the paragraphs in the Code to which they refer to support their argument. Indeed, we cannot see that some of the paragraphs in the Code to which they have referred us support their interpretation of the process to be followed.
63. We do not disagree that the Young Person has complex additional needs, which have been unaddressed over a number of years. The reason in part for this, however is that the Young Person has not attended school. A robust IDP was in place whilst the Young Person was on roll at School E, but their attendance was virtually nil throughout their whole time at the school. It is abundantly clear that the Young Person is not currently in a position to follow any programme of study. The LA cannot impose a programme of study on them.
64. It is encouraging that the Young Person has been able, with assistance, to express their desired outcomes and that they now appear motivated to learn. As the evidence of the PEP highlights, the Young Person firstly needs to form and develop a relationship with a trusted adult in order to begin to address their emotional and social communication difficulties. If they are able to do so, then it may provide a basis for the Young Person to acquire some functional literacy and numeracy and to pursue further educational opportunities.
65. The support service offered by the provider meets the Young Persons ALN at this stage and it is to be hoped that they will be allocated a support worker from the service as a matter of urgency. It is noted that although the provider indicated several months ago that they were in a position to assist it appears that there is currently insufficient capacity within the organisation to assist the Young Person. This aspect needs to be pursued vigorously with alternative support obtained from a similar service if necessary.
66. It is not necessary for an IDP to be prepared to enable the Young Person to receive this support. This level of support is guaranteed through the Young Persons Care and Support Plan prepared by Adult Services.
67. In the circumstances therefore the appeal is dismissed.

ORDER: Appeal Dismissed

Dated January 2026

Tribunal Judge

