

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation Response Form

Organisation: Governors Wales

E-mail:

Tel number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	
	Special schools	x
	Special Educational Needs Co-ordinators	
	Further education sector	
	Preschool organisations	
	Education professionals	
	Teaching Unions	
	Local government	
	Work Based Learning organisations	
	Local Health Boards	
	Health professionals	
	Other public sector organisations	
	Third sector organisations	
	Individuals. Governor	x
	Other	

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	x	Disagree		Neither agree nor disagree	
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Supporting comments

Mental handicap, ESN, Learning difficulties and many other terms have been used and abused. ALN and ALP seem relevant for today and describe the additional needs that some children have. I like the fact that by applying these titles to children, it automatically leads to an examination of their additional needs and a statutory requirement to do something about them. The draft bill does cover the extended educational age range, but I have issues about the way it goes about identifying who is responsible for what. The expectation of what the governors have to do is unrealistic. Similarly, the LEAs, on their own have no means of preparing individual learning plans and the draft bill has totally forgotten that schools exist with heads and teachers inside them.
It is vital that additional learning needs are identified very early on in a child's life. The draft bill does not mention this early intervention and its importance.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree		Disagree		Neither agree nor disagree	x
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Supporting comments

By all means consult the young people, provided they have the ability to understand what they are being asked to approve. It is sometimes a case that the parent or teacher is better placed to make a detached and professional assessment of a child's needs and this may not always be to the liking of the child. He/she should not have a veto on any plan unless there is a sound reason for it. If that is the case, then the teachers/parents have not done the job correctly in the first place.

I agree that there needs to be a unified approach, but am surprised that the draft bill misses several important elements of this. There is no mention of the head teacher or the school staff, unless the term "Governing Body" is used to include them. That is not my understanding of what a governing body is. The special school and pupil referral units are not only ignored but seen as places to avoid. They offer a viable alternative to mainstream schools both as a boost to get pupils into the mainstream and as an umbrella within which children have security, they thrive and achieve both educationally and socially. No mention is made of Social Services-one of the big three who are vital in the preparation of children's Individual Development Plans.

Earlier discussions on the financial implications of moving from 'Statements' to Individual Development Plans were always looked on with concern by the teaching profession. The draft bill does not mention this debate or any of the deprivations that the new system could bring with it. Some reassurance that the statute also makes financial provision a legal requirement would help.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Yes, provided the bill is revised to include all those who have an input into the process and possibly defines, more clearly, who does what. At this stage the bill provides an outline sketch of the process and it needs to look more closely at the mechanics of how Individual Development Plans are made and put into practice. Some legal requirement for financial support to make Individual Development Plans work would also be useful, especially if it tied down who was responsible for the cash.

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In its present form the draft bill excludes head teachers, staff, and the social services among others. There is very little evidence that I can see of any attempt to ensure that various agencies collaborate. The bill indicates what some of the participants are required to do (some of which is impractical) but there is little discussion about how agencies can help each other in this work. It would almost seem that the creators of this bill don't really know how the nuts and bolts fit together beyond the grand scheme of things. That grand scheme is good – as far as it goes.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	x	Disagree		Neither agree nor disagree	
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Supporting comments

Yes. This part of the bill seems well sorted and fit for purpose. My only caveat is the proposed veto given to the children who may not always know best.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Draft ALN and Education Tribunal Bill.

These are a few brief comments after my reading of this draft bill. I include these in this form as a supplement to the questionnaire because this allows me to comment without the restrictions such a format dictates.

I note the complete lack of reference to maintained special schools and pupil referral units, the enthusiasm for main stream education for all and the lack of consideration for the expertise and excellence available in such establishments. These are a viable alternative and not to be considered as a second rate solution. I thought that this particular issue had finally been laid to rest – obviously not!

Page 4. Language not considered as an additional educational need. I would take issue here. It is quite obvious that such children need additional educational input to give them an opportunity to learn, thus they need additional support and this needs to be specified regardless of any other educational need they may have.

I am puzzled by the definition of “Governing Body” in this draft bill. I am also puzzled by the complete lack of reference to head teachers and school staff in this draft bill. They have a key role in all of this.

Page 6 item 9. Who is to say that any governing body has the necessary expertise or time to prepare an Individual Education Plan (I.D.P.) ? They have the power to insist that the school does this work but it is the school’s responsibility, not the governors, to prepare I.D.P.s.

11.2. While the young person may have an input into the process he/she shouldn’t have a veto for any plan just because it is not to his/her liking. There may be sound reasons for the “unpalatable” provisions in the I.D.P.

Page 8 11.5. needs fleshing out. Under what circumstances would they need to review the plan and what kind of revision could be made.

Page 8 12.4. Now the LEA has to prepare the I.D.P., 6. 9. Says the governors have to do it, this needs clarification.

14. 3. Either the governing body and the LEA are responsible for the I.D.P. or they are not. The Local Health Board input is part of the I.D.P. If their input is missing the I.D.P. is incomplete.

14.8. So the governing body and the LEA do have responsibility for the Local Health Board input.

14.9. Is this a get out clause for the Local Health Board?

15. 6. This is impossible. Our school has 75 children with I.D.P.s. Governors would be in school permanently just doing this work in addition to all the other things they have to do. As said previously, this is the role of the school. They

have the expertise, they teach the children and they need I.D.Ps to plan their curriculum. Governors have neither the expertise (collectively) or the time to do this and they do not know the children sufficiently well to be able to make detailed educational judgements about them. No one set of governors will be so close to the children in the way their teachers are. No teacher would prepare I.D.Ps for the whole school. They submit these for their class. The head then reviews them and adds in the other needs gained from I.D.P. meetings with parents and other professionals.

25. 1. This is not the governing body's responsibility. This is done by the school and approved by the governors.

26. Forcing a pupil onto a school is a dangerous power to grant any LEA. There should be some kind of independent appeals process in case of dispute. 26.6. highlights the need for care in pupil admission so that exclusion does not follow from it.

29.1. This doesn't take account of the specialist provision and expertise provided by special schools. This is a viable alternative which should be given consideration. 29.1.B is an inadequate definition and it should include a reference to special schools and the excellent work that they do.

46.2. Governing bodies do not have members of staff. They are volunteers – see comment 25.1.

46.3.A&B May not always be possible if the governing bodies lack such expertise. Not every governor is an educational expert.

47. Is good but what about the same for Social Services. There is no reference to them in this draft bill.

49.4. What about Social Services.

There is quite a lot of technical explanation in this draft bill, and this seems, to a layman to make reasonable sense. I don't feel qualified to pick holes in any of this

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Additional Learning Needs Reform Branch

**Support for Learners Division
Department for Education and Skills
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To whom it may concern,

EDUCATION WORKFORCE COUNCIL'S RESPONSE TO THE WELSH GOVERNMENT CONSULTATION ON THE DRAFT ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) BILL

About the Education Workforce Council (EWC)

The EWC came into being on 1st April 2015. The EWC is the professional regulatory body for the education workforce, covering school teachers, Further Education (FE) teachers and learning support workers in school and FE settings. It is also the policy intention of the Welsh Government to further extend the new Council's remit to Youth workers and Work based learning professionals from April 2017.

General comments

In responding to the consultation, the Council has not replied to each of the specific questions as most are beyond its remit. It is the Council's view that there is much to welcome in the Bill. In particular, the introduction of the terms 'additional learning needs' and 'additional learning provision' to replace special educational needs / provision; the conscious and deliberate child and person centred ethos behind the Bill, and the measures designed to improve provision and ensure that provision continues up to 25 years of age.

Additional learning needs coordinator (ALNCo)

As the professional body for the education workforce, the EWC is particularly interested in the proposal under paragraph 46 of the Bill, which imposes a duty on schools and Further Education institutions to designate a member of staff as the 'additional learning needs coordinator':

46 Additional learning needs co-ordinator

- (1) The duty in subsection (2) applies to the following bodies—
(a) the governing body of a maintained school in Wales;*

(b) the governing body of an institution in the further education sector in Wales.

(2) The body must designate a member of its staff (to be known as the “additional learning needs co-ordinator”) as having responsibility for co-ordinating additional learning provision for pupils or students (as the case may be) with additional learning needs.

(3) Regulations may—

(a) require bodies to ensure that additional learning needs co-ordinators have prescribed qualifications or prescribed experience (or both);

(b) confer functions on additional learning needs co-ordinators in relation to provision for pupils or students (as the case may be) with additional learning needs. (page 27)

With little detail on the face of the Bill, we anticipate that there will be more information to come on this proposal in the Regulations and any complementary documentation / guidance.

The EWC looks forward, therefore, to responding more fully to a consultation on the Regulations. It is Council's view that high standards of ALN provision can be achieved only through well qualified and supported professionals. In particular, we hope the Regulations and other documentation will include more detail around the following key aspects pertaining to ALNCos:

- Whether there are plans for any mandatory minimum qualifications or training for those practitioners designated ALNCos?
- Whether there will be separate professional standards for ALNCo's in school and FE sectors?
- Clarity on whether ALNCo is to be a ‘pay standard’.
- Plans for support for ALNCos. For example, quality assured, nationally available and funded training provision.
- Potential consequences for those practitioners who already perform SENCo (ALNCo) duties.
- Potential impact on courses of Initial teacher training, and the Masters in Educational Practice.

Given the Council's statutory role and remit, it would expect to be involved in the development of any qualifications or professional standards for those designated ALNCos.

Finally, the Welsh Government will be aware that the EWC's Register of Education Practitioners already holds data on school and FE teacher qualifications including many of those already designated as SENCos.

Furthermore, from April 1 2016, the Register will also include data on learning support staff in school and FE settings. This data may be useful to the Welsh Government in developing qualifications and other arrangements for ALNCos.
Yours sincerely

Hayden Llewellyn
Chief Executive
Education Workforce Council

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Owen Hathway

Organisation (if applicable): NUT Cymru

e-mail/telephone number:

Your address:

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Question 1 – The introduction of the term ALN and a 0–25 age range

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Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

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Supporting comments

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

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Supporting comments

<p>The Bill does have a focus on a multi-agency approach to supporting children and young people with ALN. However, in practice in the past having a truly integrated system has proved unsuccessful. It will be important that the Bill is followed up by guidance that clarifies the need to work across sectors, in particular in encouraging social services and other health bodies to share information where appropriate with schools about circumstances outside a school setting which may impact on pupils.</p>

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

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Supporting comments**Question 6 – Supporting documents**

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Question 7

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Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Dr Veena Bisht, Consultant Community Paediatrician

Organisation (if applicable): Dept. Of Community Child Health, Abertawe Bro Morgannwg University Health Board

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

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Supporting comments

It is positive to include young people up till the age of 25. This would help in transition process and also bring young people's additional needs in focus. This would certainly help in planning for appropriate provision whenever they move between schools and further education/ training institutions.

For children in early years (between 0-3 years) there is variability in service provision available locally. There will be capacity issue if services were to be streamlined and made universal/statutory.

The definition of ALN is however very broad and does not differentiate children and young people whose needs are complex needing high degree of support/provision.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft bill does not give out the details on practicalities of preparing, maintaining and reviewing IDPs. There is concern around huge administrative workload it is likely to create for schools and partner agencies.

It has not been clarified in the bill the involvement of health in the IDPs apart from providing information when requested and delivering provision that has been agreed in IDPs.

Vast majority of children with additional needs will be known to child health department one way or another (e.g known to therapies). However, currently the child health department including various therapies are only involved in providing medical advice for statements which usually involves children with very complex needs. With this bill, potentially we would be required to collaborate/ cooperate in preparing the IDPs for all children with additional needs irrespective of the level of complexity. This is beyond the current capacity of child health departments as it would mean increased clinical and administrative workload.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Draft bill suggests that the IDPs should be outcome focussed and the outcome should be measureable and reviewed annually or sooner if necessary. This may be good on a short term but an overview and a long term focus should also be part of IDP. This would help to map out the progress of each individual child over a number of years and also help professionals understand the change in child's profile and needs over time.

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft bill emphasizes on duty to collaborate and work together which on principle is very good and the way forward. However what each agency might be able to deliver is another question. Every agency is constrained by their own resources.

There will be issues around what parents/young people might want in their IDPs and ALPs and what is possible for the agencies to deliver/provide.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The bill provides the appropriate framework however the Education tribunal for Wales needs to have representation from Health and other agencies as well which have been required to collaborate/ cooperate to provide for child's ALP as there are likely to be disagreements on what provision is requested and what is deliverable by other agencies apart from education.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

There is lack of details around the IDPs. We hope that this would be set out in the ALN code.

We have concerns regarding children with very severe and complex needs who were protected via statements and had accountability/responsibility resting with LEA but it seems now they will all be under IDP umbrella and would have to rely very much on individual school systems to escalate their needs and provision. This may bring even greater variation across regions how these children are provided for.

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Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: [REDACTED]

Organisation (if applicable): [REDACTED]

e-mail/telephone number: [REDACTED]

Your address: [REDACTED]
[REDACTED]

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Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- ~ the age range is too wide
- ~ The definition of ALN is not definitive enough.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

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Supporting comments

I believe that this will open doors for many parents to raise disputes who are eager for a 'diagnosis' of ALN.

Parents already voice their opinions with the school and if they are unhappy can take it further. Being able to take the school or Local Authority to tribunal as they are unsatisfied with the school's professional opinion will be time consuming, and costly. This will encourage schools to do as parents ask regardless of need rather than be taken to tribunal.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

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Supporting comments

**Question 4 – Increased collaboration**

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Supporting comments

It will be of benefit to us as SENCos to have designated medical officer.

In order to ensure that multi agency collaboration is effective, there must be a tight framework. At present, it can be frustrating when trying to communicate with health professionals due to time constraints/working hours.

Does this mean that the LHBs will be involved in writing the IDP?

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

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Supporting comments

I strongly disagree with this. I foresee that this will create more problems than resolutions for Schools and LAs. There is no criteria in place to prevent a tribunal.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

An example of an IDP would be of benefit so we can begin to prepare for the new bill.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

It is unpractical for all pupil (who are currently School Action and School Action Plus) to be in receipt of an IDP. In order for the IDP as IEPs and IBPs to work successfully, they must be written in unison with the pupil, parents,

class teacher and SENCos. This is too time consuming. At present, our school uses a Provision Map. (I have emailed a copy to the gentlemen that attended Ysgol y Fro for a consultation meeting). The map sets out targets for children at School Action and is reviewed termly. This is manageable. I cannot see a way in which the IDPs will be manageable.

I find it difficult to believe that there is not graduated response and that all pupils, regardless of need will have the same provision/level of paperwork.

The Code suggests that ALNCos should be on the Senior Leadership Team. Many SENCos/ALNCOs at present are on the SLT, they also have many other responsibilities such as MAT, Wellbeing, curriculum subjects or even class teachers etc. Many SENCos are not in receipt of an SEN point to 'Teaching and Learning Responsibility (TLR). Surely, with the new proposal, and new responsibilities/duties, it should be suggested that ALNCos should receive an SEN Point or TLR.

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X

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	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	x	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	x	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

A robust legal framework is vital in ensuring or promoting compliance. However, it is also vital that funding reflects statutory obligations to ensure that all bodies can meet their obligations.

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Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	x	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	x	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Increased collaboration is a good thing and the bill would appear to promote that. However, if, as appears to be the case, the vast majority of the obligations in the bill will be the responsibility of schools to discharge (rightly), it holds that school should be the central players within those discussions. They need to be the main contributors in light of that responsibility.

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Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	x	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 6 – Supporting documents

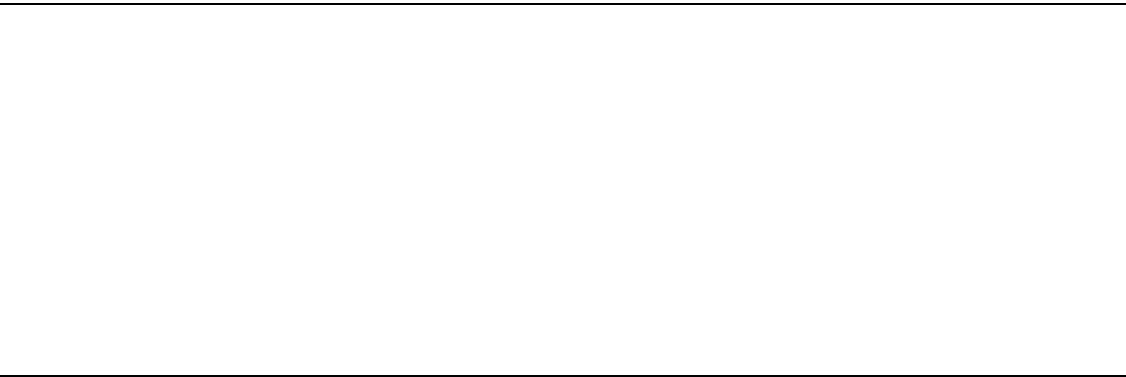
Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The child friendly ones were particularly well laid out.

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Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.



Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: St Julian's School

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input checked="" type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
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	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree although feel that funding for ALN provision would need to increase to cater for this extended age range.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	X
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Supporting comments

The Bill aims to create a robust framework, but, will it work?

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Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	X
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Supporting comments

Neither agree or disagree.

This will only work if all agencies engage. We question the current engagement of Social Services in regards PEPs. Also, the Bill cannot enforce Health to fully participate in IDPs.

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Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Agree

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

<p>It would be useful to see and consider an exemplar IDP framework (we are assuming that a standard framework will be issued centrally). Will these differ for what is currently SA / SA+ and Statements?</p> <p>Perhaps more importantly would be to be consulted on the new ALN Code of Practice: this would be essential for ALNCOs when considering</p>
--

impact on workload.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Funding - how will the new IDPs be linked to funding to ensure provision can be delivered by TAs?

IDPs – will there be a standardised format or framework issued centrally for all schools?

ALN Code of Practice – impact on workload?

ALNCo qualification – what are the details regarding this?

By accepting the Bill, are we accepting the new Code of Practice?

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Keith Jones

Organisation (if applicable): Hywel Dda
University Health Board

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

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Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input checked="" type="checkbox"/> Y
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

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Agree	Y	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	Y	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst the draft Bill outlines the framework within which IDPs would be prepared, maintained and reviewed, it will need to be supported by more specific operational guidance on the development of IDPs recognising the inter-agency nature of the information to be reflected.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	Y	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments**Question 4 – Increased collaboration**

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	Y	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Health Board supports the objectives of the draft Bill and the objectives for an improved framework within which agencies can work together for the benefit of children and young people with ALN.

The Health Board notes the assumptions outlined in the draft Bill, supporting draft ALN Code and Explanatory Memorandum regarding the anticipated impact of Option 3 and the limited potential for additional costs for Health Boards as result of the new arrangements.

Effective implementation of the draft Bill may highlight previously unmet need and whilst this would represent a positive development for the needs of children and young people aged 0 - 25, we remain concerned that this would place additional resource pressures on agencies (including Health Boards) which, if unplanned, may compromise practical achievement of these objectives

Our assessment of the resource implications associated with the creation of the DMO role are greater than those described in the Explanatory Memorandum as many of these functions are not reflected in formal roles at the present time. It is likely that this would need to become a dedicated role, with administrative support and resources to facilitate effective delivery of the responsibilities outlined.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	Y
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Supporting comments

Achievement of this objective will need to be supported by clear guidance to facilitate a common interpretation and consistency of approach between agencies.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

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ALNET9

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Ffugherad Williams

Organisation (if applicable): Ysgol Gymraeg Gymraeg

e-mail/telephone number: [REDACTED] Pont-Saint-Norton.

Your address:

[REDACTED]
[REDACTED]
[REDACTED]

Responses should be returned by 18 December 2015 to:

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Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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Special schools		<input type="checkbox"/>
Special Educational Needs Co-ordinators		<input type="checkbox"/>
Further education sector		<input type="checkbox"/>
Preschool organisations		<input type="checkbox"/>
Education professionals		<input type="checkbox"/>
Teaching Unions		<input type="checkbox"/>
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Health professionals		<input type="checkbox"/>
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Third sector organisations		<input type="checkbox"/>
Individuals		<input type="checkbox"/>
Other		<input type="checkbox"/>

Consultation questions

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Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

How will it be maintained up until the age of 25?
Will it prevent young people accessing Higher Education. Who funds this?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

How will levels of provision be clarified?
Will there be a defined format for IDPs?
Will the IDP reflect the child's difficulty?
What about graduated response?

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Not all pupils recognise their difficulties.
+ parents do not recognise.
Children's wishes are not always the
correct / best steps.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Theoretically yes, but it will be on the school
What about resources needed for use in school?
Will those agencies satisfactorily get together to help the child?
Timing issues

How will the agencies be able to get together?

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Clarify consequential and transitional provision.

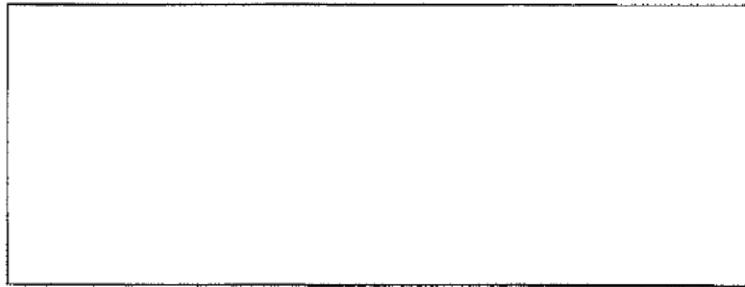
Is there a time limit e.g. a pupil has left school a number of years previously, can a dispute be initiated?

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

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Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Huw Davies

Organisation (if applicable): Estyn

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
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	Education professionals	<input type="checkbox"/>
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	Local Health Boards	<input type="checkbox"/>
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	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>

	Other	<input type="checkbox"/>
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Consultation questions

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Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The new definition of ALN is broadly in-line with the current definition for SEN. The definition 2 (2) (a) of the Bill, would be strengthened if it read “...has a significantly greater difficulty in learning, or **aspects of learning than...**” as opposed to “...has a significantly greater difficulty in learning...”

It is essential that providers should have a clear understanding of what is meant by ALN, particularly in light of the fact that the term ALN currently refers to a broader category of need. Guidance on this should be provided in the draft ALN Code.

NAfW Circular 47/2006 Inclusion and Pupil Support introduced the concept of additional learning needs as a broad umbrella term that covers many other groups of learners. There is a need to provide greater clarity around the future “classification” of these learners, many of whom are vulnerable groups. There is a risk that attention will be moved away from these learners. Will updated guidance be provided for schools and local authorities in relation to these other groups of learners?

In respect of providing a definition of ALN for children school age, it is not clear what part 2, 2 (3) of the Bill “...is likely to be...” means. Clarity on this is needed in the draft Bill. It also needs to be un-packed and included in the draft ALN Code.

The draft ALN Code very usefully highlights (para 105, p27) what “provision of any kind” means.

The bringing together of different legislation to cover the 0-25 age range appears largely appropriate. The move towards having a system that runs from 0 to 25 is welcomed, and should ensure a more joined-up approach at

different phases of a child/young person's life.

Greater clarity is needed on the responsible body for children under statutory school age. The role of the local authority is unclear in relation to pre-school children and those in non-maintained settings. There are different arrangements and practices across Wales. It could be useful to suggest preferred models or principles in the supporting draft ALN Code.

The foundation phase profile will identify where pupils are not making progress. However, there is no single pathway of assessment for pupils who fail to make expected progress. The foundation phase profile guide book suggests that the ALNCo will be best placed to know which assessments are appropriate. Further guidance to ALNCOs is needed as this is not covered in relevant detail in the draft ALN Code.

There is a need to recognise the importance of partnership working across the stated age range but particularly for those learners who are either pre or post-statutory school age. The role of, for example, Flying Start, Families First and Communities First needs to be made clearer. There are many different practices across the country – perhaps the draft ALN Code could provide case studies of exemplary practice? The draft ALN Code needs to be viewed as a manual for practitioners. It will be greatly enhanced by providing case studies, exemplar materials, time-lines and flow-charts.

There needs to be a recognition that additional responsibilities relating to learners above the age of 18/19 will significantly increase workloads for local authorities. It is essential that expectations are realistic and manageable.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Estyn welcomes the aim to standardise assessment and planning processes, including the use of a single statutory IDP. Overall, the draft Bill provides an appropriate legal framework for the preparation, maintenance and review of Individual Development Plans.

However, at this stage, it is not clear if personal education plans for looked-after children and health care plans will be subsumed into the IDP.

The requirement to review IDPs with the 12 month period of starting, is in-line with current requirements for statements of special educational needs.

Although timelines in respect of assessment and issuing IDPs are suggested in the draft ALN code, it may be helpful to include these in the Bill.

Greater clarity is needed on the process that a provider needs to take in order to conclude that a child or young person does or does not have ALN. There are no specific references to the role of educational psychology services or other specialist services in this assessment process within the draft ALN Code.

In order to align differing practices that currently exist in Wales, there is a need to provide unambiguous guidance as to when an IDP becomes the responsibility of the local authority. There is a risk that a lack of agreement over who should produce or maintain an IDP may result in a delay in providing appropriate support for children. What happens if a school and local authority fail to agree on whose responsibility it is?

Over recent years, many local authorities have worked hard to provide for pupils with SEN without the need for a statement. Where this has happened, provision has often been put in place more quickly. Will the new system of IDPs for all pupils with an ALN allow for prompt intervention?

It is essential that the amount of information required in IDPs varies according to the level of need and intervention for individual learners. Otherwise, there is a risk that the process will become over-bureaucratic and unmanageable.

It is not clear when statements of special educational needs come to an end or how this will be brought about. This will cause considerable concern for practitioners and anxiety for parents.

Further information and clarity is needed about what happens where a “young person” in schools or FEIs does not consent to decisions being made about their ALN or ALP.

There a new requirement for independent schools to register or apply for a material change to accommodate the needs of learners with ALN. The statutory responsibility for delivery of the ALP within an IDP rightly remains with the local authority but the Welsh Government should consider how it can strengthen the requirements for independent schools to deliver ALP in the IDPs of publicly-funded learners through the review of the Independent

School Standards (Wales) Regulations which is ongoing.

S15 (4) (b) of the Bill, implies that LHBs and NHS Trusts cannot change ALP without an amendment to the IDP. Is this the case? If so, will this happen within the 12-month review period or on the date of the 12-month review?

The roll-out of and the requirement that the person-centred planning model is used as vehicle for capturing the views of children and young people is in keeping with the aim of increasing the voice of the child. However, it is not clear what impact this requirement will have in relation to capacity of providers to administer this process.

Will the draft ALN Code provide exemplar materials and further guidance to support providers in respect of assessing ALN, arranging for ALP and preparing, maintaining and reviewing IDPs? Current good practice sees reviews of learner progress on a termly basis – is this practice also to be included in the code of practice? The draft code of practice recognises that the timescales for completion of IDPs stated are based on assumptions. Reducing the timescale for local authorities from 26 weeks to 10 weeks is likely to place additional pressures on local authorities.

Estyn has some concerns around the capacity and capability of local authorities to extend the statutory duties further. Following inspections of local authority education services for children and young people (LAESCPY) in the current inspection framework, 5 local authorities remain in a follow-up category at the time of writing this response. Although, ALN services are generally found to be strong in local authority inspections across Wales, there will need to be strong leadership to ensure that strategic approach is taken towards planning and commissioning ALP for post-18 learners. There is no mention in the draft Bill, explanatory memorandum or draft ALN Code on the future role of regional consortia in relation to additional learning needs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill introduces a number of significant changes to the current system, with the desire to introduce an ALN system that is fairer to learners

and affords them greater protection. Overall, the provisions in the Bill will help to ensure that the interests of children and young people would be protected and promoted.

The proposed emphasis on involving the learner in the development and review of their IDP is a positive step, and should ensure that their views are sought appropriately.

Estyn welcomes the extension of the role of Education Tribunal Wales. Estyn also welcomes the statutory role of ALNCo. The draft ALN Code sets out the expected roles and responsibilities clearly. Further information on the qualification requirements for the role of ALNCo needs to be provided.

The measures to ensure protection are weaker in relation to ALP specified in a plan as provision a LHB or NHS trust has agreed to secure, particularly in any case where the Education Tribunal Wales orders a revision of an IDP. The LHB or NHS trust is not required to secure the revised additional learning provision unless the Board or trust agrees to do so.

The requirement to make all IDPs statutory will afford greater levels of protection than is currently the case. However, protection for post-18 learners until the age of 25 only cover learners in FEIs or specialist independent colleges. Will learners following higher education courses in further education colleges be entitled to IDPs and therefore protection? There is no such protection for learners with an ALN in higher education, or those on training schemes.

Advocacy services and pre-Education Tribunal Wales support does not extend beyond the age of 18. This is a weakness and conflicts with the aim of extending protection for learners with ALN 0-25.

The draft ALN Code very helpfully provides advice about duties in relation to engaging and empowering learners. The person-centred planning model too will help to ensure that the voice of learners is heard.

Greater clarity is needed in respect of accountability of IDPs, particularly in respect of any referrals to the tribunal. In essence who is taken to tribunal, providers or the local authority?

One of the central tenets is on improved learner outcomes. The explanatory memorandum articulates this rationale clearly. However, further guidance and materials for key agencies, their partners and providers is needed to achieve this aim.

It is not clear how findings from the two reports by the People and Work Unit are going to be incorporated into the Bill or the draft ALN Code. Improving educational outcomes of learners with ALN will be greatly assisted by improving the knowledge and understanding of all teachers and support staff. Currently just under a quarter of pupils in schools are on the SEN register.

The workforce planning of special educational needs (SEN) specialist services report, clearly indicates that the demand for services has increased in the past five years and this is likely to continue; and that there have been reductions in the capacity to provide services, particularly on the part of the NHS. However, there is no indication that the Bill or draft ALN Code recognise or respond to these findings.

The draft ALN Code (p13) recognises that “teaching practitioners have responsibility for their own professional learning”. The section goes on to state that schools should be using their school development plans to perform this function. This needs to be strengthened to reflect the changing profile of pupils’ special educational needs in Wales. Around 23% of pupils in schools in Wales are on the SEN register and this has remained reasonably constant over the past few years. However, there have been noticeable increases in pupils being identified with autistic spectrum disorders, general learning difficulties and attention deficit hyperactivity disorder.

Pupils with special educational needs are more likely not to attend school. Twelve per cent of pupils with SEN are persistently absent (source: Absenteeism by pupil characteristics March 2015). Pupils with a statement of SEN had the highest rate of fixed term exclusion of 5 days or fewer (132.6 per thousand, compared to 19 per thousand for pupils with no SEN) (source: Exclusions from schools in Wales March 2015). High aspirations and improved outcomes for learners with ALN cannot be achieved if pupils fail to attend, are disproportionately excluded or where approaches used in teaching are not sufficiently tailored to the needs of learners. There is limited guidance in the draft code of practice to respond to this aspect.

The draft ALN Code (p 105, para 509) [relating to the education of learners educated otherwise than at school (EOTAS)], articulates the role of local authorities in relation to the provision of “...suitable education...this education must be full time...” Estyn is of the view that the requirement that the LA must provide full time education needs to be made stronger.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Estyn welcomes the creation of the statutory designated medical officer role. The code of practice provides an outline of the function of the designated

medical officer. Greater clarity is needed, on the detail of the role and how the officer will work with the local authority. Will the role extend to supporting providers for learners with less complex needs such as those with IDPs that are the responsibility of schools, rather than the local authority?

The draft Bill certainly places a requirement for closer collaboration and working between agencies and providers. The explanatory memorandum goes some way in articulating the advantages for learners, that closer working with partners will bring and outlines the respective duties on key agencies. However, the detail as to how these arrangements should work is unclear.

The role of the local authority in commissioning post-16 provision will be enhanced. This should bring about a more strategic approach to planning. However, there is a need for further guidance on protocols, commissioning strategies etc that are needed to ensure effective working partnerships.

These do not feature in the draft code of practice and further guidance should be provided.

Paragraph 3.83 of the explanatory memorandum states that it is only discretionary for the local health board to inform the local authority, if they are of the view that a learner has an ALN. This should be made a requirement and articulated strongly in the code of practice. It is not contained in the draft ALN Code.

Opportunities for divergent working practices by local authorities and other partners should be minimised. There is no mention in documentation on the role of regional consortia in preparing for and implementing the proposed changes.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Estyn welcomes extending of the right of appeal to all learners age 0-25 with

ALN.

Education Tribunal Wales orders will not apply to LHB or NHS trusts, this is a potentially a significant shortcoming, as children and young people may not be able to access ALP that has been deemed appropriate.

Paragraph 3.84, (page 27) of the explanatory memorandum focusses on the arrangements that local authorities need to make to avoid and/or resolve disagreements, specifically in providing an “independent person”. Further information on the responsibilities of local authorities is included on page 25 of the draft code of practice. However, the relevant paragraphs shy away from using the term advocate, even though this is stated clearly in the draft Bill. It is important that the “independent person” is appropriately trained and qualified to provide such advice. This should include detailed knowledge of the legislation and processes around additional learning needs. Failure to provide this may be counter-productive.

There needs to be clarity around whether independent advocacy services cover post-16 learners. The draft Bill para 37 (4) page 21 states that “...the local authority must take steps which it considers appropriate for making the [advocacy] arrangements to: children and young people for whom it [the local authority] is responsible... As a result, post-16 learners with IDPs that are not maintained by the local authority would not be afforded access to this level of service. This would compromise the concept of protection.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The draft ALN Code provides a very useful starting point. The code of practice will be used by practitioners in local authorities, schools and FEIs as a first and on-going reference point. As such, it will be greatly improved by providing case materials, exemplar documents including timescales and flow-diagrams.

The draft code of practice recognises that it does not yet include guidance for vulnerable groups of learners including those that are home educated and those in youth custody.

The draft Bill is very much in the domain of education. Whilst there are new statutory duties on LHBs and NHS trusts, it is not clear if there is a shared philosophy or understanding between local authorities and LHBs/NHS trusts.

A number of other relevant points which could improve the draft code of practice are provided throughout this response.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

LHB and NHSTrusts – where either are in agreement of the ALN and subsequent ALP being made by the LHB, the responsible body of schools/FEI or the local authority are not responsible for ensuring that the ALP is made by the LHB / NHTTrust. Where there is a failure to assess or provide what recourse is there and for whom? The remit of the tribunal will not extend to ensuring compliance from LHB or NHS Trusts

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Rob Williams

Organisation (if applicable): NAHT cymru

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input checked="" type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The ALN and ALP terminology reflect the inclusive intent of the Bill as well as its focus upon educational needs – the broader use of the word ‘learning’ is also welcome.

**Whilst there is a recognition that establishing the age range from 0-25 has a number of benefits, the additional challenge of such an age range will lie more significantly with Local Authorities, particularly 19-25 age group.
It needs to be recognised that ALN funding is already under significant pressure within Local Authorities.**

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There appears to be greater clarity within the process, the areas of responsibilities and expectations placed upon each relevant body.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	-------------------------------------	----------	--------------------------	----------------------------	--------------------------

Supporting comments

The Bill lays out clearly the various responsibilities, duties and roles.

It must be noted, however, that the resource burden will fall more significantly upon mainstream and special schools. Whilst there should be a clear intent to ensure that children and young people with ALN would be protected and promoted, the increased resource burden may impact upon a school's ability to deliver such a commitment.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The basis and potential benefits for joint agency working is very clear within the Bill.

The challenge will be establishing the most effective methods for securing such a collaborative approach – new and innovative models of working will need to be explored and established, particularly where previous attempts at joint agency working have been less successful.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The commitment to avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal are explicit and provide a clear aim.

There may be a need to establish an agreed process and protocol where the ‘reasonable provision’, as expressed within the Bill, is judged to be too difficult to meet. Who is responsible for establishing what is / is not ‘reasonable’ and who ultimately decides the way forward – keeping the needs of the child / young person at the heart of the process?

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The supporting documents appear well structured – anticipating potential areas for ambiguity or confusion.

The draft ALN code in particular should provide greater clarity and consistency. Training in use of the draft ALN code will be critical in order to ensure the desired consistency is delivered by key staff across all settings.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

One area of potential concern lies within Section 14 – Individual development plans: Local Health Boards and NHS trusts.

Subsections 1, 2, 4 and 5 refer to a LHB or NHS trust securing an agreed provision but there appears to be no statutory duty to provide the provision – this suggests that the provision duty will fall back to the educational setting / Local Authority – this has resource implications and appears to be in potential conflict with the ‘reasonableness’ referred to in previous sections.

Subsection 7 and 8 also suggests that a LHB or NHS trust can decide whether or not to secure amended provision even if an Educational Tribunal for Wales orders a revision of an IDP within the area originally secured by the LHB or NHS trust.

Further, the responsibility to specify the revision of additional learning provision ordered by an Educational Tribunal for Wales that the LHB or NHS trust has originally agreed to secure then appears to fall back upon the governing body or local authority.

Clearly, for elements of an IDP that fall within the LHB or NHS remit, it should be the duty of the LHB or NHS trust to provide the provision and revise the same provision should it be directed by an Educational Tribunal for Wales

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	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>

	Other	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I am happy with the change in terminology but am really concerned about the funding for those in the 16-25 age bracket.

Where is this additional funding coming from? In these times of austerity and efficiency savings, council cuts have already resulted in fewer Inclusion staff available to work with schools and pupils.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I disagree with this as there is no clear progression or graduated response identified in this Bill. There is a mention of an entry point but there is no mention of criteria for entry which could cause disputes with parents/carers. Similarly with exit from the IDP again there is no clarity or criteria.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I am not convinced that it would protect those currently with a Statement of Need. I think the danger here is that pupils with statements will get lost in the system. There needs to be some sort of graduated scale/criteria. This will also give parents greater understanding on where their child sits within the system.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

In theory we all know that a multi -agency approach is the best way forward for pupils with ALN. However in reality it is almost impossible to get all parties, in particular health, to sit around the table to discuss a child's needs. The only way that this would work is if a web based IDP was established, which would allow professionals to access and contribute to learners IDPs electronically. If we are going to update this code then this is an ideal opportunity to make it technologically fit for purpose for the 21st Century.

I think the get out clause mentioned in 3.83 Increased Collaboration needs to be removed:

A NHS body.....must comply with the request unless it considers in doing so would...

- a) *Be incompatible with that body's own duties; or*
- b) *Otherwise have adverse effect on the exercise of its functions*

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I disagree, this Bill lacks clarity, clearly defined parameters and criteria.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

I am concerned about the training implications.
Under Communication and Awareness Raising 7.128 Deloitte's have suggested that £23,600 be set aside by WG to revise governor training materials, awareness sessions to LA's and ALNCo's and this would be a one off transition cost.
This I feel is very much underestimated. The cost of training, support materials and guidance plus supply will be significant. It has been suggested that school's take an INSET day but currently INSET days are already taken

up with compulsory training e.g. First Aid, Safeguarding, Team Teach, Food Hygiene, SDP priorities. I suggest that WG allocate one more additional INSET in order for LA's to deliver this new Bill. Also funds needs to be set aside for monitoring and training in future years.

In addition, I agree with ALNCos receiving specialist qualifications but again who is to fund this and where is the supply funding going to come from?

I am concerned for staff that the introduction of these IDP's will significantly increase their work load and will increase stress.

I wonder how small schools with heads that are already SENCO's and that have a teaching commitment, like myself will be able to manage this increased workload.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Easy Read



Llywodraeth Cymru
Welsh Government

Response form

Helping children and young people who need extra support to learn

Children and young people with additional learning
needs



Who, ultimately, carries the can?

How to use this document



This is an Easy Read version. The words and their meaning are easy to read and understand. You may need help and support to read and understand this document. Ask someone you know to help you.



Some words may be difficult to understand. These are in **bold blue writing** and have been explained in a box beneath the word.



Where the document says 'we', this means Welsh Government.



Please send your answers to:
Additional Learning Needs Reform Branch
Support for Learners Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ



e-mail: SENReforms@wales.gsi.gov.uk

WG26534

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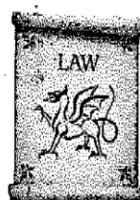
What this consultation is about



A **consultation** is when you are asked what you think.



We want education in Wales to be good for everyone. We are changing what all children learn in school. We have plans for training and supporting teachers.



We are writing a new law to support children and young people with additional learning needs. We will say ALN from now on. We want to know what you think of the new law.



You will need to read **Helping children and young people who need extra support to learn**. This tells you about the new law.

We are also writing rules for staff to use the new law. This is called a **Code**. We will send these out later this year.

A lot of different people have helped us to write this law. It has taken us a few years. We think it is good but know it can always be made better.



We will make sure that children and young people tell us what they think of the new law.

There are now some questions we would like you to answer.

About you

Your name

Your organisation (if you are writing this for them)

E-mail

We will put all the replies on the internet. If you do not want us to put your name on the internet please tick this box

Please tick what sort of group you belong to.

- Schools
- Special schools
- Colleges
- Pre-school settings – like nurseries
- Public service group – like a day centre
- Voluntary service group – like People First
- None.

1. What are additional learning needs for people aged 0–25?

In the new law we say what we mean by additional learning needs (ALN). Do you think it is clear that we want to focus on learning needs?

(See pages 7 to 10 in the main document.)

Yes No Not sure

Do you think it's a good idea to focus on learning needs instead of other needs like health?

Yes No Not sure

Do you think the new law will be good for people aged 0–25 with ALN?

Yes No Not sure

Why do you think this?

It's too complex to work out whether there will be legally binding requirements to provide what a young person needs. I'm worried the authorities will be able to claim they don't have to provide what the IDP states a person needs.

I'm also worried what it will mean for those currently between 16 and 25 who have already been dumped and had their statements cancelled.

2. A plan for each child and young person

We want the new law to:

- give every child and young person with ALN an individual development plan (IDP). This is instead of different plans for different ages and different types of ALN, for example a Statement, an Individual Education Plan or a Learning and Skills Plan
- offer all children and young people with ALN the help they need
- support all additional learning needs.

Do you think our plans on how to:

- get ready for
- write
- do
- check

the new individual development plan are good?

Yes

No

Not sure

Will having one individual development plan be better than having different plans for different types of ALN?

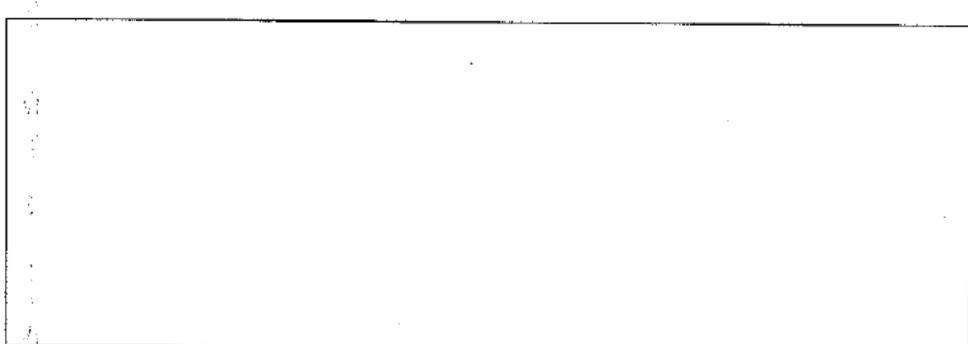
(See pages 11 to 15 of the main document.)

Yes

No

Not sure

Why do you think this?



3. Aiming high for children and young people with additional learning needs

We want to make sure all staff think about what children and young people with ALN must have. We want their needs thought about in all planning for education. Will the new law do this?

(See pages 16 to 17 of the main document.)

Yes

No

Not sure

Why do you think this?

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

We want children, young people and their families to be involved in decisions about how to support their needs. Will the new law help children and young people have a say in the support they get?

Yes

No

Not sure

Why do you think this?

1.

2.

3.

4.

5.

6.

4. Everyone working together

We want services to work together to support children and young people with ALN. Will the new law help everyone work together?

(See pages 18 to 19 of the main document.)

Yes

No x

Not sure

Why do you think this?

It does not seem clear as to who bears ultimate responsibility for ensuring a child or young person gets what they need.

j:

h:

l:

h:

t:

g:

o:

5. When people do not agree about the plan

We want to try to stop disagreements about the child's or young person's plan and help sort things out quickly when there is a disagreement. Will the new law do this?

(See pages 20 to 25 of the main document.)

Yes

No

Not sure

Why do you think this?

b

c

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Do you think the way to appeal is clear?

Yes

No

Not sure

Why do you think this?

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g

h

i

j

k

l

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z

6. Anything else?

Is there anything else you want to say about the new law?

Who, ultimately, carries the can?

ALNET14

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: CERI- LOUISE BATER

Organisation (if applicable): MONMOUTHSHIRE LA.

e-mail/telephone number: [REDACTED]

Your address: [REDACTED]
[REDACTED]
[REDACTED]

Responses should be returned by 18 December 2015 to:

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	Special schools	<input checked="" type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
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	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–26 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree

Disagree

Neither agree nor
disagree

Supporting comments

Post 19 provision is inherently difficult because of social services structures / health services structures and transitions from youth to adult services. Local Authorities do not have the expertise or planning experience to encompass post-school provision and provide robust intervention and/or advice to adult learners.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree

Disagree

Neither agree nor
disagree

Supporting comments

The principles are sound but the Bill/draft code & Regulations are insufficiently detailed to meet these principles.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

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Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

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Supporting comments

The Principles are sound but the Bill/draft code and regulations are insufficiently detailed to meet those principles.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Cross-border issues are not mentioned anywhere.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

ALNETIS.

**Draft Additional Learning Needs and Education
Tribunal (Wales) Bill**

**Consultation
response form**

Your name: [REDACTED]

Organisation (if applicable): [REDACTED]

e-mail/telephone number: [REDACTED]

Your address: [REDACTED]

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	Education professionals	<input checked="" type="checkbox"/> X
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Agree with definition of ALN.
- However, there will be workforce / capacity issues for LA, training for post 16 work will be necessary as will additional resources for storage of records.
- Retention and recruitment of EPs in Wales is very difficult at present – extra places will be required on EP training course in Cardiff.
- What about those returning to education after long gaps?
- Clarity needed around definition of ALN in regards to BESD students, as the status of these pupils does not seem to be clear.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	X
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Supporting comments

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Depends on type of ALN, a narrow definition which focuses on attainment will exclude many types of needs (especially BESD).
- It all depends on skills and resources of schools and the funding systems available to them from LAs.
- Devolved funding means that many schools choose to spend ALN money elsewhere, less protection for parents and children.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Ten week response time (in the COP) is an unrealistic timeline to organise multi agency involvement & joined up planning.
- Information sharing systems between Health, Social Care and Education are not currently aligned which often makes joint working difficult.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Concerns about lack of parent support if schools do not agree with their concerns.
- However, parental and child involvement in creating IDPs should lower conflict.
- Some concerns over overburdening young children with too much information / responsibility regarding future decision making.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

- Draft COP feels 'woolly' and not specific enough
- EPs should have a statutory role in the code (as in the English code) if we do not then the LA may choose to consult with cheaper (and less skilled) professionals who may not have the breadth of expertise. There are lots of references to *may* consult and *might* consult. We would prefer it to say *must* and *should*.
- EPs *always* have a view (not *may* have a view) on the appropriateness of provision to meet needs.
- We would like a specific reference that clarifies our role - as in the 2004 code sections:

1:12 page 4 in relation to statutory process

1:20 page 6 in relation to high quality support

10:8 page 135 specification of role

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: X

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	x
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Definitions

The definition are appropriate and in essence replicate the current definitions as set out in the SEN and Disability Act 2001 and the Code of Practice 2002.

Definition of ALP

It was anticipated that the definitions of ALP would incorporate some form of agreed national criteria to assist Local Authorities to decide whether to make available additional provision over and above what is generally available. The omission of such criteria will result in the current definition of Additional Learning Provision remaining open to interpretation and perpetuate what is a postcode lottery situation.

With no additional resources there is an unrealistic challenge facing LAs of supporting young people up to the age of 25 and this could present a real risk to support currently made available to learners within the 0-19 age range.

The above would present LAs with serious capacity issues.

The extension of the age range up to 25 years could increase significantly the number of young people which the Local Authority could become responsible for maintaining Individual Development Plans which would result in additional funding implications for Local Authorities despite the fact that Local Government settlements are reducing on an annual basis. 3

Paragraph 2.16 of the draft Code of Practice states that where a Local Authority prepares and maintains an IDP then the Further Education Institution will have a legal duty to “help” the Local Authority. This is again ambiguous and open to interpretation and manipulation.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/> x
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Supporting comments

The draft Bill does not give stakeholders confidence that it provides “a robust legal framework for IDP preparation, maintenance and review”.

Section 11.5 of the draft Bill specifies circumstances which would be appropriate to refer a matter to the Local Authority. However the wording is unspecific and open to local interpretation which would result in possible variation in working practices across Local Authorities. Bearing in mind reduced school funding in real terms there is a distinct possibility that referrals from Governing Bodies (schools and their PIs) may increase.

This would result in capacity pressures for Local Authorities and it may well lead to the submission of more appeals to the Tribunal. There are implications to Local Authorities in view of Section 17 of the Bill which specifies that a parent or young person can request that a Local Authority considers the decision of a Governing Body and in such circumstances the Authority must make a decision. This could result in the matter being referred to the Education Tribunal and result in funding implications for the Local Authority.

Section 12 (4) gives LAs the power to direct a governing body to prepare and maintain IDPs if it considers that it would be “reasonable” for the school to secure the additional provision. There is no clarity as to what is meant by the term “reasonable”. This could result in local interpretation, disputes between schools/FEL’s and LAs and perpetuate differences between LAs.

The Legal Framework cannot be described as being robust in view of the fact that there are no statutory controls or constraints on Local Health trusts. Section 14 (6) of the Bill clearly stated the Education Tribunal for Wales has no powers or jurisdiction over National Health Boards and this may result in Local Authorities having to fund specialist health provision or it could result in a child or young person’s special educational needs not being fully met.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/> x	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill, to an extent, promotes children and young people’s interests. In order for this person centred approach (PCP) to be effective, it will require comprehensive training for school and FEL establishments and this would have funding implications for schools and LAs.

However, the Person Centred Review format may not be appropriate for all pupils, so flexibility in the system will be needed. There is some concern about the range of skills needed to be a facilitator and contributor to person centred reviews, in order to ensure that children and young people are kept safe during the process and do not feel scrutinised, criticised or just overwhelmed by the situation.

Extending the age range beyond 19 and up to 25 does provide protection that wasn't previously available for young people with ALN. Parents and young people would be able to lodge an appeal to the Education Tribunal against the decision of an FEI governing body. However, there is a risk to Local Authorities in that Further Education settings may well refer such matters to the Local Authority to decide instead - this again may result in funding implications for LAs.

The draft Bill and draft Code of Practice have not strengthened the protection afforded to children and young people with ALN in the context of securing and maintaining appropriate levels of provision from the Local Health Boards or NHS Trusts. This is an inherent problem within the current legislation and unfortunately does not seem that this issue has been addressed in this draft Bill.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The bill provides an opportunity for agencies to work collaboratively on improving outcomes for children and young people however the lack of accountability of agencies other than LA remains a matter of concern.

The bill improves the process of collating information through PCP approaches but the delivery of ALP is unchanged. The capacity to secure the delivery of provision is unchanged.

The duty and LHB to appoint a designated or clinical medical officer is a positive development in improving collaboration between LHB and LAs.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The Bill does provide a framework to support disagreement avoidance and resolution but it adds very little to what was included in current legislation. Although it is anticipated that person centred planning (PCP) should enhance collaborative working practices, implications of the draft Bill are such that there may possibly be a greater number of disputes arising as a consequence of the extended age range and the budgetary constraints of schools/FEI governing bodies. The requirement to have such services will have funding and capacity implications for Local Authorities. However, the focus given within the draft Bill and Code of Practice on avoiding disagreements is welcomed.

The provision of avoidance and disagreement resolution arrangements will yet again have funding implications for Local Authorities. Not only is there a cost to providing such services, but it will again impact on capacity of Local Authorities in terms of the possible likelihood of greater demand for such services as a consequence of the broader remit of Local Authorities (19-25 years of age).

It does not appear in the draft Bill or Code of Practice that disagreement resolution and independent advocacy services are linked explicitly to Local Health Board or NHS Trusts.

Neither the draft Bill nor the draft Code refers to NHS complaints procedure - "Putting Things Right". There is some doubt as to the level of independence of the Local Health Board's appeals procedure. There is no reference to a regulatory body which would arrive at final decisions in response to complaints made against the NHS. There is only limited reference to the provision of bilingual services within the draft Bill and Code of Practice. The legislation and proposed Code of Practice should be more explicit with regards to the requirement of the Welsh Language Act and Welsh Language standards.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The mandatory content of IDPs as specified in the draft Code is helpful to ensure consistency.

Para 3.82 of the Draft Explanatory Memorandum implies that the designated medical officer will be responsible for ensuring that the appropriate LHB input is provided however that is dependent on the LHB having "agreed" to provide certain provision.

It is welcomed that there is no particular reference to “parental preference” in the context of educational placements. A shift of emphasis from parental preference to a fundamental principle that “learners must be supported to participate in mainstream education and in the National Curriculum as fully as possible wherever this is feasible ... There should be a general presumption of mainstream education being the most suitable setting for all learners” is welcomed.

The Draft Explanatory Memorandum is a helpful document but it is felt that the draft Bill and draft Code of Practice fall short of the expectations of LAs when there was an opportunity to have a complete overhaul of additional learning needs legislation.

The Draft Explanatory Memorandum predicts that there should be no additional costs to Local Authorities as consequence of the proposed legislation. However it might be necessary to have a more balanced response or acknowledgement that schools and FEI Governing Bodies may shift the onus on Local Authorities if they are of the opinion that an Educational matter is beyond their capability (Section 11).

The Draft Explanatory Memorandum (7.194) gives statutory status to the proposed Code of Practice and implies that this will ensure a clear and consistent approach to ALN across Wales and remove the variation across Local Authorities.

It is our view that the draft Bill and Code remains open to interpretation and possible manipulation resulting in continued variation of practices across Local Authorities.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The current lack of detail in chapter 18 (transferring and IDP) is an area of concern. Currently, due to the emphasis on parental preference, there can be undue pressure placed on one Authority to accept a pupil from another, even if the preferred school is at capacity level.

There needs to be clarity within legislation and supporting guidance to help Local Authorities to resolve such situations.

Most of the issues of concern have already been identified in responses to the above questions.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable): YOT Managers Cymru

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

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Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Working definitions clear and less discriminatory
- Potential for the focus of need to be lost for some children and young people
- “Further education sector” should be clarified to ensure that this includes full range of provisions from FE to University
- Are there the resources available locally and consistently to respond and support the increased numbers of CYP likely to be identified in the extended categories/criteria?
- S.2.2 for purposes of clarity specific categories ought to be referenced against expected age ranges of CYP falling into the category- e.g. compulsory school age
- The Bill references CYP right to deny/refuse consent for the development of an IDP. What links with frameworks and processes to revisit the professional concerns/judgements regarding the necessity of an IDP

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Lack of clarity regarding the status of PRUs/non-maintained/EOTAS provisions-
- Who is accountable for the LAN and ALP-appears to change dependent upon starting point
- A clear process map detailing the various routes of decision making would assist- it appears Board of Governors can deliver an IDP or they can refer on to the LA to deliver. The draft Bill fails to provide a clear and robust framework for the delivery on IDP. This can impact upon how services manage families expectations at the earliest opportunity to ensure best delivery of APL and IDP with families support/agreement
- 12.6b- what is the prescribed provision?
- The review period for IDP – 12 months appears too long and consideration should be given to greater frequency especially during the 1st year of IDP delivery
- Should reviews be undertaken – mandatory if there is a change in circumstances
- What about CYP not in mainstream provision?
- Integration of plans- If LAC status is there a requirement for PEP and IDP – one document would be effective
- Transfer arrangements for IDPs detail who but could reference timescales. What happens when resources identified not available in new local Authority area?
- S30(1 and 2) references delivery of ALP through other provision- does this include at home, what monitoring will be required and what might constitute inappropriate

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Clear definitions of ALN and ALP supports effective communication between stakeholders and with CYP and parents/carers.
- Strong emphasis on outcomes for CYP not just delivery of services by providers/agencies. Is the ALP and IDP effective?
- Emphasis on early identification
- Clear duty to provide information and access to the information including range of formats and delivery methods to be considered.
- Clear duty to ensure effective participation in identification of ALN and in developing the IDP
- Mandatory code and procedures for review of code laid out in detail can contribute to the effective protection of the ALN and subsequent IDPs
- See above comments about decision making. Lack of clarity

regarding who and uncertainties /delays in decision making may obfuscate development of appropriate plans and therefore fail to protect and promote the interests of CYP with ALN.

- Bill provides for a clear escalation process for all parties
- Protection of CYP interests would be enhanced by greater clarity on transfer arrangements/ timeliness etc.. Reduction in delay of provision, resources etc...
- Clear duty on the LA to ensure that it is has in place arrangements including information and resources focused on the avoidance of disagreement and any subsequent resolution that might be required.
- Advocacy and “case friend” roles emphasised and clear and consistent rights of appeal detailed.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Focus on collaboration with emphasis on a non-adversarial approach to development and reviews of ALP and IDPs
- Duty to collaborate is emphasised and deliver ALP as identified
- Emphasis on securing both CYP and parent/carers participation in the planning and delivery of ALP and IDP is to be valued.
- What are the information sharing requirements and restrictions?

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Yes, the bill appears to provide a solid framework for conflict resolution.
- Who is accountable for the LAN and ALP-appears to change

dependent upon starting point and this uncertainty may well be a source of conflict at the beginning that may be avoided with greater clarity/guidance detailed.

-

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

- Overall the Bill codifies existing good practice and the supporting materials are useful with regards to the consultation and mapping out the processes.
- Some of the definitions lack clarity: e.g. para 2 draft bill & para 97 WG guidance in definition of ALN what does “significantly greater difficulty” actually mean?
- Some of the wording in the supporting materials (in particular in the WG guidance) is woolly. Examples:

Para 530 WG guidance “aspire to meet aspirations” could be replaced with wording like “take reasonable steps” which would instil greater accountability.

Para 533 WG guidance – “a detained person serving sentence in community” does this mean a person on licence?

Para 545 WG guidance – Who in the local authority?

Para 125 WG guidance – Youth workers/officers needs to be added to the list

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The Bill and subsequent guidance will need to emphasise the importance of linking all existing plans for CYP across a range of service domains including Youth Justice and the Secure Estate (some CYP placed in English institution).

The Bill does not reference training providers, Careers. What responsibilities are required of these agencies in supporting the development of and delivery of IDPs?

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Jennifer Hill

Organisation (if applicable): Vale of Glamorgan Council

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

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Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The definitions of Additional Learning Needs (ALN) and Additional Learning Provision (ALP) are succinct and appropriate in the draft Bill. It also deals properly with the age range it sets out to capture. However, the term currently used is Special Educational Needs (SEN) and ALN is used for a wider group of pupils. The use of ALN for SEN pupils has the potential to cause confusion, particularly for those pupils who currently have additional needs but no SEN such as those who are more able and talented, young carers, looked after children and pupils with English as an Additional Language (EAL). There is a need to ensure that the Code of Practice provides consistency in terminology and clarifies how the term ALN relates to these groups.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The introduction of individual development plans (IDPs) will simplify the individual education plan (IEP) system for parents but would potentially cause considerable difficulties for schools and the Local Authority (LA) as the result of the removal of the graduated response (school action, school action plus and statement). There is a need to clarify at what point a child or young person would be defined as having an

additional learning need that would require an IDP. Without this clarity there will be different interpretations across Wales which will cause discontent and confusion. In addition if all pupils with a special educational need, even at a very low level are to have an IDP, there will be an increase in bureaucracy, something that the bill aimed to reduce. As stated previously by the WLGA, IDPs are likely to be requested for 20% of the population which amounts to approximately 93,000 pupils across Wales. This will increase the workload of school staff and educational and health professionals and inevitably incur further costs.

There is also a lack of clarity regarding when IDPs should be referred to the LA. It will be essential that this is clarified in the new Code of Practice otherwise it will cause confusion and conflict between schools, parents and the Local Authority. There is also a lack of clarity around at what stage parents refer to the disagreement resolution service. The removal of a graduated response will potentially result in demands for provision being made at a much lower level of need than currently, resulting in resources both physical and financial being over stretched.

To implement the Bill properly, significant additional funding for ALN would be required due to the increase in officer time that would be needed to support the IDP process and to fund provision for the extended age group.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It is evident that the draft Bill aims to ensure that the interests of children and young people with ALN will be promoted and protected. High aspirations for these vulnerable learners are embraced. There is a danger that the system could favour the most knowledgeable parents at the expense of the children whose parents know less about the system as they will be aware that if they take legal advice that instigates taking the LA to tribunal, they may be able to access provision that otherwise would not be available to all ALN pupils. Currently schools and LAs provide for all children with SEN/ALN equally. There is a danger that this will encourage a two tier system of support. It is a concern that the legislation though including a much broader range of pupils and extending the age range to 25 will stretch resources too far and rather than protecting and promoting the interests of children and young people with SEN there is a danger that finite provision will be diluted and those with most significant need will not receive the provision they require.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

In the Vale of Glamorgan agencies currently work very well together to support all children. Difficulties arise when resources are limited. This particularly refers to health services. The introduction of a named medical officer and a duty for NHS trusts to deliver ALP is a positive and welcome way forward.

However, the legislation does not make all agencies equally responsible for the delivery of provision. Local Health Boards are only responsible for provision that they "agree" to deliver. This clearly allows for the scenario whereby there is a difference between what is agreed and what is required. The draft Bill does not address the possibility that Local Authorities will be left to meet the cost of other provision and held to account when it is not delivered. It is also of concern that Further Education Colleges are only required to make their "best endeavours" to deliver provision for young people with ALN. Clarity is needed about who determines whether best endeavours have been demonstrated and if the Local Authority will again become responsible for securing provision if the college has not been able or is unwilling to do so.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Currently the Vale of Glamorgan School Improvement and Inclusion Service refers all pupils and their parents / carers to SNAP (disagreement resolution service). Inclusion Service officers work well with parents / carers to ensure that all children and young people with SEN receive their entitlement to support. The draft Bill states that it is encouraging disputes to be resolved at a low level. Very few cases in the Vale of Glamorgan are referred to the SEN Tribunal for resolution. The draft Bill has Tribunal in its title and therefore increases the risk that parents / carers will assume that the best way to achieve support for their child is by taking schools and the LA to Tribunal rather than creating a dialogue with the school and the LA.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The development of a stronger Code of Practice will be welcomed by LAs, schools and parents /carers. In its current form the daft Code of Practice does not provide the detail required on many key areas which will lead to confusion and variations in delivery of provision for children and young people across Wales. Raising the status of SENCos/ ALNCos will benefit children and young people with ALN and raise the profile of SEN in schools. Introducing a qualification for ALNCos and suggesting that they are qualified teachers and part of the management team is also very helpful.

Encouraging schools to meet the needs of pupils as part of the school improvement agenda is a very positive way forward as it will encourage high quality inclusion and pupil specific differentiation and intervention.

The introduction of a value added system to inform categorisation and systems of accountability is vital. It is important that the progress made by individual pupils is recognised and an inclusive school praised rather than criticised when added value is achieved whilst the special need of a pupil makes it impossible for him/her to achieve expected levels.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

In the Vale of Glamorgan we welcome the draft ALN Bill and a stronger Code of Practice. We are particularly pleased to see a system of recording the input of health professionals.

Our main reservations are:

- Providing an IDP for all pupils with ALN will cause an increase in bureaucracy.
- The financial climate will mean a reduction in resources.

The removal of a graduated response is likely to increase demand.
Extra funding is needed.

- Care will need to be taken that the system serves all parents equally well and does not favour those who are more knowledgeable.
- The Bill does not place mandatory requirements on Health or the Further Education sector to deliver services and provision. This could make Local Authorities responsible for providing and funding this provision by default.

Extending the responsibility of Local Authorities for educating children and young people with ALN from 0-25 substantially increase the duties and responsibilities of Local Government. This will require additional funding and it is unclear whether this funding will be provided.

The Draft Code of Practice does not give sufficient detail on some key areas which will lead to confusion and differing provision across Wales.
We support a system that is fair for all pupils with SEN and are committed to providing high quality provision for all.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: **Karina Dancza / Ruth Crowder**

Organisation:
The College of Occupational Therapists

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government, Cathays Park, Cardiff, CF10 3NQ

or completed electronically and sent to:
e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health & social care professionals	x
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other – Professional body	x

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The College of Occupational Therapists do not feel the definitions of ALD and ALP adequately set out the discrepancy required for a child or young person can be classified as having an additional learning need. It could also create a situation where children and young people are left without support until they are ‘severe’ enough to meet that threshold, rather than focusing on prevention and early intervention.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

While The College of Occupational Therapists supports the intentions of a unified planning process and increased participation of children and young people, we do not feel that this has been adequately undertaken by the current draft Bill. In particular, the draft Bill does not improves the context for children and young people sufficiently beyond the existing legislation.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The College of Occupational Therapists welcomes the high aspirations and improved outcomes promoted as intentions within this draft Bill. To strengthen this within the document it is recommended that:

- * Throughout the document it refers to children, young people and their parents. Should this read parents/carers? (e.g. point 6)
- * Point 29.1: The wishes of the child/young person should also be taken into consideration in the school placement.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill separates educational needs from health and social care needs which is likely to promote disagreements between the funding organisations. For example, if a child is challenged with toileting and this means they cannot access their classes, would this be considered a health or education issue? There are many other examples of where the distinction between a health need and an education need are unclear and this is particularly unhelpful for children, young people and their families accessing services. This does not appear to support other public service policy to increase and improve integration for a seamless service for citizens in Wales

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The College of Occupational Therapists commends the intention for avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal. We do not feel, however, that the draft Bill will promote this within its current form. Specific areas which remain unclear include:

- * Point 9: The governing body decides if a child has ALN and secures provision. Would governing bodies have the skills and capacity to do this? Would there be a conflict of interest? (e.g. budget implications)
- * Point 11.5: Who decides if it is beyond the capability of the governing body to determine a child's ALN?
- * It is unclear throughout the document how a child's health needs might be met or if it is just the education needs which would be documented in the child's plan. If this is the case then it may be confusing for families if they require separate documents depending on the classification of their child's need as either health or education. It is likely to cause conflict if the Local Health Board does not agree any provision (as is specified in Point 14.1).
- * Point 14.2: Funding conflicts may pressurise occupational therapists to not specify the involvement required for a child if there is no provision to meet that need.
- * Point 40.1: The provisions for appeals for health needs are unclear.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The supporting documentation set out clearer intentions than was evident in the draft Bill. For example, there appears to be a focus in the

adjunct documentation on improved outcomes and a person centred focus; this is not clearly represented in the draft bill.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Victoria Evangelinou Springall

Organisation (if applicable): AEP/ Vale of Glamorgan

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	X
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The term Additional Learning Needs is to be welcomed and the definitions of ALN and ALP are very similar to those definitions in the current Code of Practice and to those in the English SEND Code of Practice. The extension of the age range from 0-25 is also to be welcomed providing the necessary resources are put in place in order to effectively meet the needs of all CYP with ALN.

However the essential role of Educational Psychologists in all complex cases referred to the LA *must be recognised* on the face of the Bill and in the Code of Practice to ensure that children and young people in Wales have the same rights of access to an EP as those in England.

The Code of Practice should also state that schools should consult with an Educational Psychologist *before any case is referred to a LA*. In addition the wider role of the EP in supporting school staff at all levels including FEIs needs to be explicitly recognised in the Code of Practice.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

A unified planning process is to be welcomed and the requirement that all IDPs are statutory adds to the robustness of the legal framework. However the processes for the preparation, maintenance and review of IDPs are not clearly set out in the Bill.

There needs to be a graduated response to the assessment and identification of ALN. In essence the original code was and is very clear about the processes and components of an effective and comprehensive assessment process based around the concept of a graduated response and increasing specialist involvement. This fundamental principle is not clearly stated in the Bill or in the draft Code of Practice.

As stated in response to question 1, the essential role of Educational Psychologists in all complex cases referred to the LA must be recognised on the face of the Bill and in the Code of Practice to ensure that children and young people in Wales have the same rights of access to an EP as those in England.

Moreover the Code of Practice should state that schools should consult with an Educational Psychologist before any case is referred to a LA. In addition the wider role of the EP in supporting school staff at all levels including FEIs needs to be explicitly recognised in the Code of Practice.

Neither the Bill nor the Code of Practice specify the role of the institution or school in maintaining the plan in cases when the IDP is held by the LA. Without a more detailed description of the process it is difficult to see how the IDP can be a working document when held by the LA. There is a lack of clarity in how the LA will be able to secure provision in those cases when it holds the IDP particularly with regard to FEIs

The emphasis on increased participation of children and young people is to be welcomed. It is essential that the voices of children and young people are heard in whichever manner is most appropriate for them and that all the CYP workforce incorporates the culture of listening within their day to day practice. Person centred planning meetings demonstrate good practice and must be resourced appropriately in order to ensure the effective formulation of IDPs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There is a clear focus on promoting the interests of children and young people with the emphasis on person centred planning and the concept that all IDPs should be statutory. However to achieve improved outcomes there is a need for more clarity in the whole process of preparing, maintaining and reviewing IDPs – see responses to questions 1 and 2 above.

The role of the ALNCO will be crucial and he/she must have appropriate qualifications and undertake relevant training and CPD. However there will be a need for the training of the school and FEI workforce to be sufficiently skilled in meeting the needs of CYP who have ALN. The role of the EP will be crucial in providing training and on going support and advice.

In practice EP services will need to be properly resourced in order to meet:

- Statutory roles in complex cases – before referred and once done so – including working with multi-agencies
- Increased training needs as well as ongoing support and advice to ALNCOs, teachers and head teachers in schools and FEIs (NB latter is new responsibility)

The Bill will inevitably and quite rightly raises aspirations and expectations and the implications for the Educational Psychology workforce must include consideration of commissioning more university training places. There is also a need to ensure adequate funding for Local Authorities if the Bill is to succeed in improving outcomes for children.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In theory the Bill provides the basis for increased collaboration and planning but it is unclear how the IDP and any Health Care plans will link together. However in practice with ever decreasing resources it will be difficult to achieve significant improvements in the way that agencies work together.

There is a greater degree of clarity with regard to the role and responsibilities of other agencies and providers such as the Health Service in the way IDPs

will be written (although there is no duty or statutory requirement for LHBs to be involved in the preparation and maintenance of IDPs for young people in FEIs).

However it will still be difficult for parents and young people to complain if the appropriate provision is not provided by the relevant non LA providers as the Education Tribunal does not have any jurisdiction over non Education organisations such as the NHS. There is therefore still a lack of legal robustness in ensuring that the NHS and other organisations provide for the child's and young person's needs when required to do so..

As stated previously the requirement to fully involve children, young people and their parents in the planning process is to be welcomed. It is essential that the voices of children and young people are heard in whichever manner is most appropriate for them and that all the CYP workforce incorporates the culture of listening within their day to day practice.

Moreover a person centred approach and planning meetings demonstrate good practice and must be resourced appropriately in order to ensure the effective formulation of IDPs.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill provides an appropriate framework for disagreement avoidance and resolution but there is an assumption that under the new procedures there are likely to be fewer tribunals as disagreements will be resolved at an earlier stage. However given that all IDPs are statutory there is the potential for a high use of advocacy and disagreement resolution services as parents try to ensure that their child receives the necessary support.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft

Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Explanatory Memorandum hardly mentions Educational Psychologists. Currently FEIs make their own arrangements regarding EP assessments by commissioning EPs who do not work for the LA and LA EPs rarely visit such institutions. For those young persons with complex needs the LA will hold the IDP and this will impact on – increase - the work of the EP.

Currently EPs have a statutory role in assessing those children who are undergoing statutory assessment. Under the Bill and also the draft Code of Practice there will be no such requirement even when the CYP has complex needs. The lack of a statutory role for EPs means that Welsh children and young people with complex needs will be disadvantaged in comparison to their English counterparts.

The draft Code of Practice in its current form also rarely mentions EPs and when it does the work of the EP is given a low profile which, considering the essential nature of their role in the whole process of the identification, assessment and support of children with ALN, is very disappointing.

There is also an important role for EPs in providing CPD and support for school staff and particularly for ALNCOs and the impact of the new legislation on the EP services has not been given the consideration that is required – see answer to question 7.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

As stated in response to question three, the Bill will inevitably and quite rightly raise aspirations and expectations and the Educational Psychology workforce implications, including consideration of commissioning more university places and ensuring adequate funding for Local Authorities, will need to be addressed if the Bill is to succeed in improving outcomes for children.

In practice EP services will need to be properly resourced in order to meet:

Statutory roles in complex cases – before referred and once done so – including working with multi-agencies

Increased training needs as well as ongoing support and advice to ALNCOs, teachers and head teachers in schools and FEIs (NB latter is new responsibility)

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input checked="" type="checkbox"/> x
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>

	Other	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft bill as it stands appears extremely demanding of staff resources that are not available – not now nor in the foreseeable future. An unworkable bill is not legally robust.

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Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Intentions are good but I fear the inability to work the bill as intended will lead to frustration and very patchy practice. Particularly the c&yp without parents who can be powerful advocates will lose out.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Again, because the bill expects the impossible, I foresee significant disagreements between parents and services because the resources are not there to meet raised expectations.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

As a community paediatrician, the role of DMO seems totally unworkable to me – unless this person is invested with the powers and budget of the chief exec himself. In virtually all health boards the management of the various health professionals involved with ALN is scattered. Even if the DMO had sufficient time for the role (inconceivable) she would have no levers to make say therapy services cooperate with the LEA or school or parents in the ALN process if that therapy service is under pressure of waiting lists, for example.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Health input into the needs of 18-25 year olds is virtually always only with the GP. No involvement in this process can be expected from GPs.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

**Consultation
response form**

Your name: Claire Protheroe

Organisation (if applicable): PACEY Cymru

e-mail/telephone number: [REDACTED]

Your address: [REDACTED]
[REDACTED]

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory

Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Agree the definition ALN used reflect the intended focus on educational needs.

The 0–25 age range is welcomed to ensure consistency for a child as they move through different settings, however it is not so clear within the documents how this could be used to support younger children who have not yet reached funded education at age 3.

3.2 says “*additional learning provision*” for a child aged under 3 means education provision of any kind. This definition is not so clear, children under 3 years of age tend to be in a childcare setting rather than specifically education, if a child below 3 years is identified as needing support clarity may be required on how this would fit within these plans.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It is agreed that the Individual Development Plans (IDPs) will be a positive move, one document that will follow the child/young person as they move from setting – school – college – work, although understandably the bill does tend to refer more clearly to schools and colleges. References to how this could be applied for younger children and to support the transition into formal education are less robust, whilst there is mention of the role of health in this process for under 3's within the draft code, it does not seem to be laid out clearly within the structure of the Bill.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

PACEY Cymru recognise the importance of participation of children and young people, and welcome the emphasis placed on this within the draft documentation provided. It is important to ensure that participation is planned sensitively to avoid the process causing a negative impact on the individual, in particular their aspirations and developing self-image. The one-profile described in the draft code under points 270-274 (see page 58) illustrates a good practice example of ways to take participation forward as a positive experience for the children or young person concerned and to recognise an individual's strengths alongside their learning needs.

PACEY Cymru advocate parental choice in childcare and early education, the strong emphasis on this is welcomed.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It is hoped that the establishment of a clear process which provides consistency in approach to ALN for children and young people from ages 0 – 25 years should facilitate improved joint working. Key to this will be in the information provided to parents, children and young people themselves and the wide range of professionals who come into contact with them regarding where they can access advice and support.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Other organisations may be better placed to provide a response to this question. Again access to clear information on processes for parents, children and young people and professionals will be key to ensuring this.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Draft additional learning needs code

There are a number of points within the draft Code which are welcomed.

The draft code highlights the importance of the use of plain language within the IDP which can be understood by parents and children or young people themselves.

PACEY Cymru welcome the recognition of the importance of early identification of ALN within the draft code, and the recognition that childcare providers along with many other professionals have a role to play in identifying children and young people who may have ALN. Whilst the Bill and Code make very clear where responsibility lies for reporting and considering ALN for children aged 5 and above, there is room for clearer guidance on reporting processes for children who are below statutory school age and in particular below funded education age (under 3 years). Point 138 within the code suggests parents are able to contact the local authority, it would be beneficial for this process to be clear for parents and professionals. PACEY Cymru would suggest that within the local authority duty to make its information and advice arrangements known (point 81), this should include those professionals and individuals identified as coming into contact with younger children (under point 125) so that they can help signpost parents to appropriate sources of advice and support and aid early identification. PACEY Cymru would suggest this could be supported through the provision of training for the childcare sector on the new Code including clear advice on who to contact within their local authority area for further information and to signpost families to for support.

As mentioned within the draft code, PACEY Cymru can see the benefit of drawing clear links to the EYDAF in supporting the early identification of children who may have ALN. It is also welcomed that the role of an ALNCo includes liaising with early years' providers to facilitate a smooth transition between settings for learners with ALN.

There are a number of references to children in their early years within the document; however it may be beneficial to pull some of this together within the section for children under compulsory school age (point 138).

Point 138 within the code suggests that children under compulsory school age attend

non-maintained settings such as private or voluntary run playgroups, nurseries, or Meithrin. PACEY Cymru would suggest that registered childminders are also included within this category.

Point 451 within the draft code lists some of the key transitions within a child or young person's education, PACEY Cymru would suggest that childcare is included as many children will transition from home to childcare, childcare to school and often attend childcare around school hours, it is important that ways to support children through these transitions are also considered when looking at good practice. PACEY Cymru would be happy to provide some good practice examples to support such considerations, if required.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

PACEY Cymru advocates for parental choice and a child-centred approach, which places the needs of a child on an individual basis first. In this respect, the ALN Bill and Code should allow for consideration on an individual basis of the most suitable format and setting for education to meet the needs of a child. Whilst it is extremely important that all settings are inclusive and open to children with ALN, not all children thrive in a formal educational environment or mainstream setting. Assessment of the needs of a child should be focussed on their needs and interests, where children and families identify alternative options would better meet their needs, these should be available

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Miss Hilary Evans

Organisation (if applicable): Cowbridge Comprehensive School

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The term Additional Learning Needs covers a huge spectrum of need. Some children will only just feature whereas others will be at the extreme end. To have one means i.e. an Individual Development Plan could mean those just featuring or moving on and off the continuum could be easily overlooked if a school is trying to juggle 300 IDPs. The very child we hope to reach could be the child 'ignored' due to burden of beaurocracy.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill would further empower parents to make demands of provision on the school at a time when funding and staff are being decimated.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

See comments for Q1. I believe under the current funding regime it is impossible to meet the needs of all pupils and some would be overlooked.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

One plan that follows a pupil through school would certainly help with continuity of provision and increase ability of receiving school to make appropriate provision. However, the primary partner schools for the school in which I work are largely in receipt of small schools allowance. They have very few pupils with significant needs. When they arrive in Comprehensive school instead of being 1 of 120, they are 1 of 1500.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I disagree strongly with this statement. Parents already make unrealistic demands of the school in terms of the support they request for their child. This could only lead to more tribunals costing the system dear, meaning funds that could have been spent on the many are put towards a ‘resolution’ for the more vocal.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

I query whether there is a need for an ALNCo to be a teacher. A related qualification e.g. Masters in Education seems to be more than adequate to fulfill the role.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Rhian Bennett (*on behalf of the Bridgend Young Adult Carer Voice Group – a forum for young adult carers aged 16 – 25*)

Organisation (if applicable): Action for children/ Bridgend Carers Centre

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

In the easy read document it says ALN included a child or young person who finds it harder to learn than other children the same age. We would request that this include young carers. We feel it is a good idea to focus on learning needs instead of health but there should still be a focus on mental health. The new document would appear to support those with ALN really well especially as they will get the same support in college as they do in school. We feel that is really important.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Young Carers would benefit from a IDP whether it be to provide extra help for homework, support to attend school, support with learning that must be done outside of school such as reading, etc., social and communication development and mental health. Young adult carers between the ages of 16 -18 are twice as likely to become NEET. An IDP in further education could potentially lower this number drastically.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Young carers would benefit greatly from having their individual needs identified as all circumstances are different but nearly all young carers feel their role affects their education and life chances. Only half of young carers in Wales have said they received additional support from a member of staff at school. It appears to be a good way to multi-agency work to achieve the best outcomes for the young carer. Being involved will help staff to understand what the young carer is going through and allow the young carer and parent to give input which we feel will make young carers more likely to engage if they feel supported.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We feel it is important agencies work together and share important information about the children and young people to ensure they are getting the correct support. In order to support young carers, schools may engage with young carers projects and other support services to provide support outside of school. However, most young carers projects in Wales meet once or twice a month which is not enough to support a young carers education. Multi-agency working is a good way to ensure the child is safeguarded. It is also a good way to set agencies goals and set out roles and responsibilities so there is less pressure on one organisation to support the young carer. The involvement of health services is vital as many young carers suffer with depression, self-harm and other forms of mental health.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We support the idea of being involved in writing the plan. Some children or young people may find it difficult to talk about worries to someone from the Local Authority especially if they are unfamiliar with them or there is no relationship or trust. It is important the worker is able to set aside enough time to form these positive relationships and ensure everyone feels included and has their thoughts, worries and opinions listened to to avoid barriers being put up. We really like that children and young people will also be able to appeal decisions about ALN or IDP. We feel the idea of an advocate is a really good idea and would make children, especially young carers, feel supported.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We felt the easy read draft of the document was really helpful and allowed us to complete the feedback form easily with some support.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

This feedback was supplied by the Bridgend Young Adult Carer Voice Group. We are very excited about the changes that will be made. We would request that young carers are named in the document as well as Looked after children and children and young people who are detained so that our needs are recognised. At present, there are over 11,000 carers in Wales who are children and we feel we need more support in education.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation Response Form

Organisation: Governors Wales

E-mail:

Tel number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
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CF10 3NQ

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	Third sector organisations	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We welcome the revised definitions which will hopefully ensure a more equitable system for supporting learners from 0-25 age range, and will assist with smooth transition to further and higher education. We feel that it is appropriate and timely to review the existing legislation framework. The proposed changes will provide a consistent approach and will help to streamline the overall process.

However, the reform envisaged in the Bill could be a daunting prospect for schools. Extra resources and high quality training will be essential, in order to meet the requirement of the proposed legislation..

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The aims of the Bill appear to be laudable; in particular, the shift away from statutory

Statements and non-statutory School Action to a single (and statutory) “Individual Development Plan” (IDP) format. The commitment fully to involve parents, the child or young person and external agencies, including Children’s Services and Local Health Boards, in producing the IDP marks a welcome shift to a more holistic approach. This approach is further enhanced by a commitment which envisages that the IDP would be reviewed and possibly revised at least annually, reflecting the child or young person progress over that period

The demands of the proposed new ALN framework will however, require additional training for all teachers required to compose and review IDPs. Moreover, there would be a considerable increase in management and administrative time needed to arrange all the necessary meetings; to attend the meetings and then undertake follow-up arising from decisions taken at such meetings. This may well result in delays in both agreeing and reviewing IDPs.

We do not agree with the statement in the Bill “*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 spoken at home.*” Learners whose first language is not English or Welsh will almost certainly need additional support from the school.

We have concerns about the reference to, and responsibilities of, the governing body in the Bill. Further clarification is needed in relation to the actual role of the headteacher and relevant staff members at the school, who will be involved in producing the IDP. The role of the governing body is strategic, not operational.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

A point of clarity is needed with regards to Part 2, Section 6 on the draft Bill “*must have regard to.....the child’s parent*”. No provision has been made to protect and promote the interest of the child if the parent refuses to engage with or opposes the process.

Whilst we agree that the proposals will help to ensure that the interests of children and young people with ALN would be protected and promoted, such a reform will be a daunting prospect for schools without the extra resources, that will inevitably be needed in order to meet the requirements of the proposed legislation. There will be significant additional work falling on

the schools, in liaising with all the external stakeholders, drafting and agreeing IDP plans for all their ALN pupils, ensuring delivery and keeping the IDPs continually all under review.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Increased collaboration will depend greatly on the capacity of the relevant agencies. A “joined up” approach and a close working partnership is essential, but there needs to be adequate resources to bring this about.

We fully support the aim to simplify the existing system, including the distinction between those needs requiring a statement and those that do not. Also, it makes sense that schools should be responsible for preparing the more straightforward IDPs with the right to ask the LA to take on that responsibility in more complex cases. The problem is likely to come in deciding and agreeing where that line is. The Code cannot prescribe that in detail, and it will be a matter of reviewing what happens in practice. Our concern is to avoid schools having to take on responsibilities in the more “complex” cases when they lack the necessary expertise, which should potentially reside in the LA.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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				disagree	
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Supporting comments

Yes we would support this. Consistent procedures and processes across Wales are crucial, with the emphasis on speedy resolution.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Maybe it would help if the Code put more emphasis and clarity on the need for LAs to assume responsibility in the more “complex” cases.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Regulation 25(2) of The Bill states that “Where a child or young person who is a registered pupil at a maintained school in Wales has an individual development plan which is maintained by a local authority, the governing body must take all

reasonable steps to help the authority secure the additional learning provision which the child's or young person's additional learning needs call for." We do not feel that this is the responsibility of the governing body, but rather a decision by the headteacher, which is reported to and approved by the governing body. There should be a role for the LA here also.

Regulation 29 "*Duty to favour education for children at mainstream maintained schools*" does not take into account the excellent work that is done at special schools across Wales.

The role of the new "ALNCO" will be much more demanding than that of the current "SENCO", and whereas currently in many schools the SENCO has teaching responsibilities, for most schools in the new legislative framework the ALNCO would be a full time administrative post. In such a situation, the headteacher will be charged with designating a "senior, qualified teacher" to the post, and the Bill implies that s/he should automatically be designated a member of the school's SLT.

It would seem clear that Welsh Government would need to provide considerable additional resources to schools throughout Wales which have a significant proportion of pupils in programmes such as School Action, School Action Plus and Statemented children. Without these additional resources the schools would not be able to meet the demands placed upon them by the proposed new legislation.

In order to gain the support of governing bodies, headteachers and the staffs of schools throughout Wales for the proposed ALN legislation, the Welsh Government needs to give reassurance on the issues set out in the memorandum.

Unless this legislation is introduced effectively, that is with adequate training and resources, there may well be an increase in appeals / legal action being taken against schools and local authorities for failure to meet parents expectations appropriately.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Christine Thomas on behalf of the Secondary SENCo Consultation Group

Organisation (if applicable): Secondary SENCo Consultation Group, Caerphilly County Borough Council.

e-mail/telephone number: [REDACTED]

Your address: [REDACTED]
[REDACTED]

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
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Category of respondent	Schools	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The terms ALN and ALP are appropriate however there needs to be clear definition of these terms alongside national guidance. The term “significant difficulties” and “disability” needs clear definition and clarity.

The definition of ALN needs to include those children and young people who are experiencing social / emotional difficulties as these may have a significant impact on learning.

Are these definitions also excluding other groups that have been identified in previous documentation, i.e. Inclusion and Pupil Support, as having ALN.

Extending the age range is a positive move that may enhance transition planning, however there needs to be thorough engagement from other agencies be (i.e. Health and Social Services) in a Bill focused on educational needs.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It cannot be a robust legal framework without clear definitions and criteria for

the preparation, maintenance and review of IDPs.

There is no "graduated response" to support children and young people with ALN. There needs to be a measured response as without this there could be raised expectations for stakeholders including children, young people and parents in relation to provision that is i) not warranted at a time or ii) cannot be provided by a setting.

Will the numbers of pupils with an ALN be recorded against a register and will this data be collected by Welsh Government as it is now, i.e. via PLASC? If so the need for national criteria will be essential in recording accurate numbers.

Also there needs to be established systems to capture provisions in place for those children and young people with less significant needs, i.e. a robust quality assurance / impact monitoring system.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that there should be high aspirations for children and young people. However there needs to be a robust system in place that ensures resources are being deployed effectively and that all pupils with ALN not just those with "significant difficulties" or a "disability" are being supported appropriately.

The increased emphasis on the child / young person's voice is a positive move leading to a more child centred approach to realistic outcomes (including wellbeing and attendance). There are also training implications to ensure that staff are skilled to capture the pupil voice.

If the ALNCo is a mandatory role there needs to be clear guidance and time to support the role.

Without guidance would resources be used effectively and on a consistent basis across local and national context. We believe there should be systems in place for schools to show the impact of interventions (i.e. impact monitoring).

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

There is a clear need for duties to be placed with Health / Social Services however this needs to be managed within their "timescales / waiting lists" etc.

The input from other services is vital with those children and young people with the most significant and complex education / health needs.

There could be conflict between costs and responsibilities of services.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There needs to be a comprehensive framework of the appeals procedure and guidelines on how to record decisions at various points.

Time and preparation of appeals have huge implications on how resources (including staff time) are managed. Organisations other than the LA also should be part of the appeals process.

Could schools be directed to provide provisions where they do not have available funds to cover costs?

To widen the appeals process puts additional pressure on schools and there may be a focus on what is not working rather than what is.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

It would have been beneficial to consult on the draft Additional Learning Needs Code alongside the draft Bill

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

**Will there be a consistent format for IDPs across consortia / Wales?
Will there be opportunity for training of governing bodies / teaching and support staff / outside agencies? Where will the funding come from?
Clear guidance relating to the role of the ALNCo will be essential in terms of workload.**

Response was made by the Secondary SENCo Consultation Group, Caerphilly County Borough Council and collated by Christine Thomas, Advisory Teacher.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Carmarthenshire head teachers (including primary, secondary, special school); SENCos (including primary, secondary, special school); Advisory Teachers and LA officers

Organisation (if applicable): Carmarthenshire Local Authority

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input checked="" type="checkbox"/>
	Special schools	<input checked="" type="checkbox"/>
	Special Educational Needs Co-ordinators	<input checked="" type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input checked="" type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>

	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree with the use of the term ALN to replace SEN although we suspect that any stigma currently attached to the term SEN will transfer to the term ALN.

We agree that there is currently an unclear divide between those requiring statements of special need and those who do not, resulting in inconsistencies across Wales due to differing practices in local authorities and that there is a need to address this. Whilst the proposed new system removes boundaries by giving the same rights to all learners with ALN, it is as yet unclear that it will provide for a consistent and unified approach nationally. Unless the new Code identifies and specifies detailed criteria for identifying ALN, for which learners need an IDP and which provisions should be allocated for particular needs and levels of need, there will continue to be regional discrepancies.

We are ambivalent about the need to introduce the use of the acronym ALP.

We agree with the principle of extending the age range and agree that this should provide smooth transition at phase transfers. We are concerned that we do not have the necessary capacity or funding to cope with the extended age range and that as a result provision for young people may be

compromised, rather than improved.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The overarching objectives of the Bill include the provision of an integrated, collaborative process of assessment, planning and monitoring which facilitates early, timely and effective interventions. The current system, with all its faults, provides the right to a multi-agency assessment which includes the right to an assessment by an educational psychologist. Head teachers and SENCoS are concerned that if the new system of assessment is not prescribed, it will fall to them to coordinate and directly secure the cooperation of the professionals involved in a multi-agency assessment and within a statutory time limit. They are very aware that they will be competing for professional support in determining which assessments are necessary in a scenario of increased demand and are concerned that this may prejudice the provision of early and effective interventions. They feel that the loss of the buffer currently provided by the LA being responsible for the assessment process will lead to tensions which will damage their relationship with parents. Furthermore, there are fears that the importance of the role of the educational psychologist in providing a highly-valued, holistic view of the learner's needs could be undermined and that the provision of educational psychology services could be compromised if such assessments are no longer statutory. There needs to be clearly defined criteria to determine when a school or FE can indicate that it wants to pass responsibility to the LA otherwise LAs will produce their own guidance and there will be the potential for differing local solutions. We have concerns about the practicalities of resolving disputes in a timely way by passing IDPs between school and LA control. Will the IDP remain with the school while the LA assists in resolving the dispute and agrees the way forward? We have noted with concern, that there is no facility for the LA to pass IDPs back to an FEI. This would seem to constitute a loophole which could be exploited by FEIs seeking to avoid the expense of making assessments and the writing and maintenance of IDPs. We cannot

see how the LA can be responsible for the ALP in an FEI over which it has no jurisdiction.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The use of person-centred planning and the right of the child to be heard and included throughout the decision-making process right up to the Tribunal level will help to raise awareness of the interests of CYP but capturing the voice of CYP does not necessarily mean that their rights will be protected. There needs to be guidance on resolving the potential conflict between the parents' rights to make decisions for their child and the child's right to make or influence decisions.

There are concerns about the need to determine the capacity of the learner to make independent decisions and the potential conflict with the right of the parent to make decisions for their child. We would like to see comprehensive guidance and national criteria for determining capacity and strongly suggest that the responsibility should be specified to be a multi-agency decision with multi-agency responsibility and accountability.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Estyn has reported that multi-agency working is sometimes weak and ineffective. We welcome the new duty on the LHB to appoint a designated medical or clinical officer. We have witnessed consistent feedback to the Welsh Government that the major concern prevalent in LAs is that the draft

Bill fails to offer any hope of improved multi-agency working because it does not make the LHB accountable. The new duty to deliver any ALP it has agreed to provide does not go far enough. The Bill needs to ensure that the LHB has a duty to identify needs, make provision for the needs it has identified and be accountable to the Tribunal for any disputes over the provision.

Over 90% of current statutory assessments in Carmarthenshire are delayed well beyond the statutory time limit by the Local Health Board. Managers in the LHB and in the LA have good working relationships locally and there is a strong desire to work together. Unfortunately, the reality is that the LHB's problem with staff recruitment and retention results in frequent changes of locum staff; a situation which incapacitates multi-agency working. Despite our joint aspirations, we are unable to work together to meet the needs of the 1-2% of learners 2-19 years who currently have statements of sen. There are very real fears that we do not have the capacity to respond to the increase in numbers, which will follow the introduction of the new system for all learners with ALN 0-25 years, along with the increased opportunity for requests to review IDPs. Overloaded services will be forced to try to prioritise co-ordinated multi-agency meetings and there is the danger that we will see a return to inconsistent provision, agencies having to work in isolation, the inevitable loss of trust of parents and learners and a return to the an adversarial system with the feeling of having to 'fight' for the rights of the learner.

SENCos feel that they will have the time-consuming problem of trying to co-ordinate all multi-agency meetings and that constraints of time limits will mean that they will have to make judgements as to when to carry on without a professional from another agency, knowing that doing so will only result in a gap in provision and a need to arrange another meeting to resolve it. They feel that they will not have the capacity for the increased workload as cuts in budgets are leading to reduced staffing and they already feel the pressure to commit time to teaching classes.

There is a concern that schools may resist providing an IDP because they do not have the capacity to cope with the necessary review meetings and that this will lead to increased referrals to the LA.

We see the aim to provide one unified plan for learners with ALN, reducing unnecessary assessments and duplication of requests for information as an important aspect of the reforms. The Bill will need to provide a statutory responsibility for the LHB to deliver services and will need to coordinate with the Social Services and Well-being (Wales) Act 2014 if the aspiration to provide one unified plan is to come to fruition in the new Code.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The use of person centred planning has been popular with parents and learners throughout the two pilots in Carmarthenshire and continues to be used very effectively in the county, giving a voice to parents and learners, building trust, a feeling of inclusion and involvement in decision-making and enabling early problem solving. The new system has the potential to reduce the number of disagreements leading to tribunals but it also introduces the potential for more disputes to arise. We are very conscious that quality PCP meetings which are necessarily thorough in discussing all views, in problem-solving and agreeing the way forward are time-consuming and we have serious concerns that we may not be able to maintain high standards of practice when the numbers of PCP meetings increase to include all learners with ALN 0-25 yrs. Unfortunately, while the potential to avoid disputes through early quality contact is sound, the reality is that we are working in a climate of increasingly devastating cuts, which are already significantly undermining our capacity to run such effective multi-agency PCP meetings.

The requirement to provide access to DRS should only be after the LA has had sufficient time to resolve disputes itself. The DRS is very expensive and if these services are needlessly too readily available to parents and CYP, the costs will undermine the provision of services generally. The LHB and SSD need to be directly responsible for funding and attending DRS and Tribunals which are directly the result of disputes over LHB assessment and provisions. Education cannot continue to fund and attend disputes over needs which they do not have the clinical knowledge to assess, nor the clinical governance to provide. There must be an incentive for the LHB to resolve problems early. Currently, LAs are forced to spend funding on private assessments, reports and provisions in order to resolve such disputes over Health provisions, particularly when parents have private assessment reports.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We welcome the provision of a stronger, statutory Code. We look forward to a consistent national system with clear, legally enforceable parameters. We have looked carefully at the draft Code and await a more finished draft on which we can offer useful feedback. Our head teachers and SENCos feel that there needs to be a clear definition of the role of the SENCo and clear guidelines for governors of schools. They welcome the proposed provision of specialist training. Many of our SENCos have considerable teaching commitments which they will be unable to sustain when their workload expands as the numbers of learners with IDPs increase. They feel that there needs to be improved training for class and subject teachers to increase capacity to respond to ALN through high quality class teaching and differentiation. Too many learners have to be provided with 'specialist' interventions because class teachers do not have the necessary training and skills to respond to needs at the universal level.

We strongly suggest that the Welsh government looks again at the costs to LAs of the proposed legislation.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We feel that the principles and aims of the proposed reforms are laudable and achievable. The use of person-centred planning with the emphasis on the child at the centre has transformed the way we are working in Carmarthenshire.

Unfortunately, we do not feel that this transformation is sustainable or achievable when upscaled to include all CYP with ALN 0-25 yrs in the proposed new system and in the current climate of cuts and reduced capacity.

The proposed system is unnecessarily complicated and bureaucratic and does not meet our expectation of a clear, user-friendly, equitable and national process. We are disappointed that the principle of multi-agency working towards a single plan is compromised.

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Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: **Hayli Gibson**

Organisation (if applicable):
Pembrokeshire Parent Partnership Service

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Individuals	<input type="checkbox"/>

	Other	<input checked="" type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on **educational** needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The intentions within the document are not clear, it was felt that no comment could be made due to this.

Concern was raised over why educational needs has been stated in wording of question and not educational needs.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The parents felt that they could agree with first section that the draft highlights stating that the children and young people will be involved much more than they are currently.

Though the parents did feel that they could not agree to the legal framework being robust. The parents commented that there again was not enough information within the draft to confirm this.

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Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Again it was felt that the draft bill would help to ensure that the interests of children and young people would be protected, with the statutory introduction of the Pupil Centred Planning work. The parents concerned this as a positive move forward as long as it was carried out correctly.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

All parents felt that this was a positive move forward to ensure that all agencies work alongside each other for the interest of the individual child.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Parents felt that they could not answer as they were in no position. As currently the work between parents and the local authority to resolve conflict has been positive. And the content of the draft bill resembles this.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The parents within the working group felt that it should be also published in a parent friendly version as well as the CYP version. It was stated that many parents would be daunted by the 100 plus pages. It would be also useful to provide a glossary alongside this explaining jargon.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The parents within the consultation working group felt that the wording and content of the questionnaire and draft ALN Code of Practice was pitched incorrect and at the wrong level. It was felt that many parents would not understand the jargon.

The parents also felt that the layout of the document was negatively presented. They felt the first chapters open up for the parents to be in immediate conflict with either the school or local authority. It was felt that the layout of the document should start with how partnerships should be made between parents, families, school and agencies.

The parent group had the following questions to raise with the Welsh Government;

- 1. What are the thresholds?*
- 2. ALNco-What level will the qualification be and what is the timeframe?*

- 3. Where will the additional funding for the ALNco be funded from? Will this be taken from the school budget?**
- 4. How much time with the DMO be allocated?**
- 5 How much time will the ALNco be allocated as non-contact time?**
- 6. Will the DMO be covering (in our case) tri-county?**

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: **Mark Owen**

Organisation (if applicable): **Careers Wales**

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
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	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input checked="" type="checkbox"/> X
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The term ALN has been used for some time, but the actual definition is more targeted within the draft Bill. It is a positive move that the ALN definition will cover a broader range of young people i.e. those who would currently be on School Action and School Action+, as well as those with statements of SEN. The ALN definition will hopefully provide more consistency and clarity in terminology rather than having multiple definitions and terms such as SEN and LDD.

We would generally agree that the term ALP is appropriate; however, in Section 3(1) reference is made to training provision (see below for comment on support for young people progressing to work based learning [WBL]).

We welcome the fact that the definition within the draft Bill provides a framework for FE colleges to support and monitor young people's needs, and in doing so will lead to greater parity between school based provision and FE provision. The draft Bill will enable more consistent support following transition from school at all ages.

In terms of the 0-25 age range, whilst we acknowledge that the upper age limit won't apply to the majority of young people who leave education, we believe that extending the age range to 25 will ensure that there is a continuation of support for young people who have ALN but have had to take periods out of education due to ill health or a range of other factors.

We do have some concerns that young people who would have had an Individual Development Plan (IDP) in school, but where the most appropriate post school option is WBL, will not have on-going support i.e. there is no requirement to maintain or subsequently review an IDP for young people in WBL. How does this provide parity for those young people? What could the potential impact be on NEET figures if support is not maintained?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that the legal framework is robust enough to support the IDP processes. The draft Additional Learning Needs Code outlines the structure and content of the IDP document, but we have some concerns about how a document of this nature can be 'person centred', and in trying to achieve this focus whether it will impact on the content. The suggested content of the IDP could lead to attempts to make the document too many things for too many people.

In addition, we have some concerns about the volume of work for ALNCos as this will be a wider administrative burden potentially leading to issues around quality and consistency.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We fully support a more 'person centred' approach to transition planning as the engagement of young people is key to the success of the process.

We are pleased to see that advocacy support is firmly embedded and the concept of a 'case friend' is a positive development. However, the emphasis in the draft Bill appears to be on advocacy as part of the appeals process only, but it is important to note that some young people, and their parents, will require advocacy support to present their views during the process itself.

A more prescriptive approach to the support of young people in FE is welcomed, but as previously noted we are very concerned about the on-going monitoring of the support needs for those young people who may enter WBL (see also question 4).

We can see the merit in transferring the current funding for securing specialist college provision from Welsh Government to local authorities, but have concerns

about whether the revised process and funding methodology will actually protect and promote the interests of young people with ALN who may require specialist FE provision.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We welcome the statutory requirement for schools and FEIs to have an ALNCo, as detailed in Section 46 of the draft Bill, and also welcome the additional requirements identified in the draft Code which will enhance the status and profile of the role which is obviously pivotal to the process.

The Bill will however only improve the way agencies work together if the Code imposes statutory requirements on other organisations. Currently there is a huge disparity in the level of engagement with the transition planning process from agencies where there is no statutory requirement for attendance and / or contribution. Often this leads to duplication of work as additional meetings have to be held. Agencies will also need to determine the most appropriate staff to be involved in the process as often those who attend cannot make decisions that involve funding and have not sought agreement prior to the reviews. That said there are also examples of best practice where all agencies fulfil their responsibilities under the existing code which could be used to inform future practice.

The Code will need to provide a level of clarity for partner organisations. Careers Wales currently has a clearly defined role within the existing SEN Code of Practice and we would welcome clear guidance on our role within the new framework to ensure that young people continue to have access to impartial careers, information, advice and guidance, and that this fits within the transition process in schools and FEIs. Access to impartial support will be particularly important. Advisers in Careers Wales currently act as the link between school and post school destinations, negotiating the support required, advocating on behalf of young people and parents, providing reassurance and on-going support during the summer period to ensure that all of the practical considerations have been resolved and that the young person is prepared to enter their next destination.

Some practical consideration needs to be given to the process for young people who leave school to enter options other than further education. Currently Careers Wales has devolved responsibility for producing Section 140 Assessments (Learning and Skills Plans [LSP]) and under the code also has lead responsibility for ensuring successful transition into further and higher education and WBL. This provides continuity for those young people entering WBL as this occurs after a young person has left school. Under the current system the Careers Wales adviser would facilitate

the transfer of information to the WBL provider via the LSP and would review the LSP and maintain contact with those young people. Processes would need to be in place to ensure that the IDP was available to WBL providers as those vulnerable young people may not make providers aware of this which may result in a lack of support.

Under our current remit Careers Wales is required to prioritise and support young people with SEN. For this to continue it would need to be clearly written into future remits and supported with clear guidance in the Code in relation to Careers Wales involvement in the IDP and transition process.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Reference to the avoidance and resolution of disagreement in the draft Bill is robust, as is the approach to appeals. More generally, the wider process in relation to earlier engagement and planning has the potential to diffuse situations at an earlier stage.

The inclusion of appeal processes for requests for specialist FE placements is welcomed.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The draft Explanatory Memorandum provides a comprehensive overview of the rationale for the introduction of the Bill, including detail on current systems, costs of potential approaches, consultation that has been undertaken and an appraisal of the available options to transform the process.

We agree with the impact assessments, however in the Children's Rights Impact Assessment it makes reference to the Bill providing a unified and equitable system across the 0-25 age range across providers and range of need. Please see earlier

comments linked to young people accessing WBL.

We welcome the draft Additional Learning Needs Code providing a statutory framework rather than a guidance framework.

We are however unable to comment fully on the Code until the completion of the most relevant section for Careers Wales (Chapter 19 – Transition and Preparation for Adulthood). We have made several suggestions above in relation to the Code.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Whilst the Bill seeks to protect and promote the interests of young people with ALN, and achieve higher aspirations and improved outcomes, this will only be achievable if related policy developments support the Additional Learning Needs and Education Tribunal Bill. At a number of recent local authority partnership meetings there has been discussion regarding FE Colleges having to place emphasis on the delivery of level 3 courses which will directly impact on the outcomes for many young people subject to this Bill.

The Bill and the accompanying draft ALN Code provides detailed information on the requirements and process, but no reference is made to monitoring of the code in terms of compliance. It would be interesting to know if there are any proposals to review the implementation of the Bill and to share good practice. This could potentially address some of the concerns expressed earlier around consistency and quality.

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Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

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	Education professionals	X
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Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Additional learning needs: The phrase '*significantly greater difficulty in learning*' is open to interpretation, with the word '*significantly*' likely to mean different things to different people. Case studies included in the Code of Practice should clearly illustrate what is meant by '*significant*'. In addition does the term encompass emotional, social and behavioural (attachment) difficulties? I don't think the definition is clear about what is meant by a '*disability*' and how this interfaces with the term '*additional learning need*'. Disability could refer to a purely medical condition e.g. asthma, and although this condition would not necessarily result in an additional learning need, or impact on the child/young person's ability to access the curriculum (although it may if it results in periods of prolonged absence from school when severe), salbutamol, the medication commonly used for treatment could affect learning as side effects include restlessness, hyperactivity and irritability. It is very difficult to focus purely on educational needs as the whole purpose of adopting a holistic, person-centred approach is to consider all the factors in a person's life which impact on their development and learning.

Additional learning provision: The wording does not make it clear what '*additional educational provision*' is likely to be for children under compulsory school age. How are social/emotional issues being captured? These are not '*learning issues*' per se, but can significantly impact on learning capacity. I hope this will be clarified in the new code.

0 – 25 age range:

There are increasing concerns regarding the capacity of local authorities to address young people's additional learning needs up to the age of 25, at a time of austerity. The majority of supporting services, including the Educational Psychology Services have already been cut, and are facing great cuts to service over the next few years! There are serious implications here which need to be addressed with regards to workforce planning! FEIs currently have no access to EPs or therapies unless this is through '*goodwill*', placing learners in these provisions at a considerable disadvantage compared to those learners who attend post-16 provision in schools. This will make the WG's duty to secure '*proper*' provision for these young people extremely difficult.

For pre-school children, multi-agency working currently works better, but there is already a capacity issue for EPs undertaking pre-school assessments. It may well be that EPs would be more effective in working more strategically to raise the capacity in pre-school provisions, or in working with families directly. The roles and responsibilities of the EP should be clearly defined in the code.

It is again not clear when something should be regarded as purely a health, rather than as an educational need.

Hopefully these issues will be addressed within the new Code of Practice.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The outlined process is not robust enough – and it appears from the wording that health boards may be able to ‘opt out’. (subsection 9 – Nothing in this section requires a Local Health Board, or NHS trust to provide anything that cannot be provided as part of the comprehensive health service in Wales continued under section 1 (1) o the National Health Service (Wales) Act 2006 (c.42).There also appears to put a great deal of ‘onus’ on the governing bodies of schools and FEIs, as well as LAs.

EPs need to be written into the IDP process (within the Code of Practice) as they can provide a ‘holistic’ picture of the child/young person’s needs and are best placed to undertake any assessment of need due to their in-depth knowledge of child development and of ALN. There is a danger otherwise that this will be undertaken by others who are less skilled. Lessons should be learnt here from England. EP services were significantly cut several years ago by LAs, but over the last couple of years the LAs are now expanding EP services again.

Multi-agency working is still an issue, mainly around concerns of attendance at person-centred meetings – ‘Planning Together; would have improved communication between agencies and facilitated this way of working. Hopefully plans for an online tool, which can support multi-agency planning for busy professionals from all services, will be resurrected in the future. This will reduce the need/cost of professionals attending meetings.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	X <input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It is pleasing that the principles of person-centred practice are being upheld, with an emphasis on the development of outcomes which are linked to the child or young person's aspirations. There are some robust elements to the Bill, but clarification is needed with regards to who holds the funding (LAs, delegated to schools?). On the whole I do think children and young people's interests would be protected as long as person-centred practice is embedded across Wales, is consistently promoted and overt links are made with the Equality Act, 2010.

LAs and LHBs basically need to become person-centred organisations, a big challenge, but if it is embedded throughout an organisation it simply becomes the way you operate! We also need to look at some of the English authorities to see how they have succeeded in making the approach work. LAs may also need to consider creating designated roles – PCP/ALN Reform managers who can devote their time and energies to making the reforms work locally!

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	X <input checked="" type="checkbox"/>
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Supporting comments

I don't think much will change unless all agencies work together in a person-centred way. The development of the online tool I believe was integral to this, and it is disappointing that this has not been possible following the work of the Alternative to Statementing' project. Hopefully the Code of Practice will outline some guidelines for good-practice multi-agency working.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

It is very difficult to ascertain whether the framework is appropriate to support disagreement avoidance and resolution until we have experienced some 'test' cases. Again, hopefully the Code of Practice will outline examples.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Explanatory Memorandum makes little mention of the role of Educational Psychologists. I have read through the draft Code of Practice, and whereas I do appreciate that it is only in draft form, and that there are currently gaps, my overall impression is that it is already far too long, that it is very repetitive in parts, and that I would currently find it extremely difficult to use/refer to.

There also needs to be a clear explanation of roles of key professionals (the ALNCo – building on the work of Cardiff and Newport in the Alternative to Statementing Project, and the Educational Psychologist in particular). If the Educational Psychologist role is not written in to the Code and Bill, there is a very real danger that LAs will cut this service. I hope that county counsellors are also being made aware of the reforms, and the likelihood that there will need to be more involvement from EPs rather than less (particularly in relation to post 16), as they have already started to cut EP services in some authorities. There needs to be a strong message here from WG.

I understand that the intention is to include a number of 'good practice' case studies to illustrate various parts of the code, and I think this is essential. Good practice examples of IDPs would also be useful, although I have always believed that the emphasis should be on the planning process, and that the focus should not be on the 'document' that this is recorded in. I found the case study approach in the Access Arrangements documentation for external examinations invaluable, and it would be useful to have a similar approach here.

The code needs to be visual in nature – most busy practitioners prefer to obtain information quickly from a flow chart or diagram, rather than to numerous pages of text.

I am sure that the working parties who are currently involved in contributing to the code are mainly practising teachers, educational psychologists and teachers who

have a good working knowledge of the person-centred approach, with input from health therapists and social workers who are involved in supporting children and young people 'at the chalk face'!. I can appreciate the need to involve personnel from Inclusion departments at LAs, and those in management positions at LHB and in Social Services but it is the people on the ground who have the greatest wealth of knowledge on how we can make this work, and who consequently know what would make an effective, person-friendly Code.

Question 7

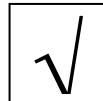
We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

It is generally disappointing that the initial vision, of a single-integrated plan has not been recognised in the proposed legislation. I am also very concerned, that the process outlined seems very similar to the current statutory assessment process – with the Individual Development Plan seeming to be very similar to the current Statement of Special Educational Needs.

There also needs to be very careful workforce planning, as increasing the age range to 25, which will include young adults as well, will stretch some supporting services considerably, at a time of austerity. My own Educational and Child Psychology Service has already experienced cuts to service, and this will continue over the foreseeable future.

I am also concerned regarding reported plans to convert current statements into IDPs. My initial understanding was that current statements would be phased out, and would only convert to IDPs at key transition points (key stage transitions, school to FE etc). If there are plans to convert all existing statements to IDPs, this should be reconsidered as it will put LAs and their educational employees under significant pressure. England attempted this with conversion of statements to EHCs, and found the task extremely problematic and ineffective, both in terms of cost and time.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Mair Roberts on behalf of Primary SENCo
Consultation Group

Organisation (if applicable): Primary SENCo
Consultation Group, Caerphilly Borough County
Council

e-mail/telephone number: [REDACTED]

Your address: [REDACTED]
[REDACTED]

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input checked="" type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

We would consider the terms ALN and ALP appropriate, but feel the term ALN could be open to interpretation depending on a school cohort as there are no specific criteria or guidance within the document.

Children aged 0 – 3 years may present with some difficulties related to early experiences rather than an additional learning need. Skills could develop later or may be attributed to deprivation. To use the term ALN could be misleading for some pupils.

There is no reference to specialist schools in relation to Additional Learning Provision.

An extended age range would mean that services would have additional demands placed on resources. There needs to be a commitment from other agencies to engage fully in processes which may also incur levels of funding.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill needs to include more specific criteria and guidance. There is very little direction to determine when a pupil should be placed on the register

and no reference to a graduated response to identify pupils needing an Individual Development Plan (IDP).

We feel the Bill would leave schools open to legal challenges without a robust framework to govern decisions. Parents and young people would be able to request an IDP which could in turn increase the workload of staff unnecessarily in some cases. The responsibility for the quality assurance of IDPs is not made sufficiently clear.

However, we feel that the development of increased pupil participation is a good thing and the Bill supports more person centred practices.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The role of ALNCo is critical to the protection of children and young people with ALN. However, the demands placed on the ALNCo will be such that designated time will need to be protected to coordinate the role. A requirement of an additional qualification should be rewarded with financial incentive and funding provided for appropriate training and / or courses.

We agree the Bill needs to ensure there are high aspirations and improved outcomes but feel this would be difficult to achieve with no criteria or graduated response to measure progress.

The current Statement of SEN offers clarity and protection. Without criteria the process is open to challenge.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We feel that the draft Bill does not fully explain how increased collaboration will be achieved. Clear statutory guidelines and a legal framework would be needed for all agencies/services to follow.

There could be funding implications if it is a statutory requirement for Health, Social Service and Education professionals to attend IDP reviews. Whilst we agree theoretically with multi-agency working, this could be difficult to achieve in practice. The engagement of other agencies without relevant legislation is not secure.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The lack of clear guidance and criteria could lead to an increase in appeals which would be difficult to defend without a clear framework. The appeal procedure is time consuming and with a potential increase in appeals this could be difficult to manage.

Training will be crucial to ensure Governing Bodies have appropriate knowledge and skills to support school through the process.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

It would have been useful to consult on the Draft Additional Needs Code with the draft Bill.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We agree the current system needs changing and child centred practices are welcomed however the documentation needs to be far clearer with more detailed criteria and guidance.

The lack of Welsh medium assessment material remains an area to be addressed.

**Responses were made by Primary SENCo Consultation Group,
Caerphilly County Borough Council and collated by Mair Roberts,
Advisory Teacher.**

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Nigel Pattinson

Secretary to National Association of Principal Educational Psychologists (Wales)

Organisation (if applicable):

National Association of Principal Educational Psychologists (Wales)

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of Respondent	Schools		
	Special Schools		
	Special Educational Needs Co-ordinators		
	Further Education Sector		
	Preschool Organisations		
	Education Professionals		X
	Teaching Unions		
	Local Government		
	Work Based Learning organisations		
	Local Health Boards		
	Health Professionals		
	Other Public Sector Organisations		
	Third Sector Organisations		
	Individuals		
	Other		

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Supporting comments

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| 1.1 | We are pleased to see that the definition of ALN has been refined over time and now corresponds to the previous definition of SEN and is in line with England. The previous definition was well established through legislation, guidance and case law and the new ALN definition will be subject to the same tests. This means that the definition requires absolute clarity. It will be used for establishing boundaries and will, inevitably, be argued over at all levels including through the courts. |
| 1.2 | All children and young people with ALN should be entitled to have their needs identified, assessed and provided for and having a clear definition of ALN makes this more likely to occur. |
| 1.3 | Any definitions used should allow for proper discrimination of levels of need. The current proposed term spans the full range of need from those requiring a low level educational assessment and intervention to children and young people with the most severe and complex needs requiring comprehensive multi-disciplinary assessment and highly specialised special school placement. |
| 1.4 | We have concerns in relation to how definitions or criteria will be used to demarcate the boundaries between IDPs that schools or FE institutions should hold responsibility for and those for which the local authority will be responsible. This issue needs to be addressed. |
| 1.5 | In similar manner we are concerned that what constitutes ALP is not adequately defined in the Draft Bill and accompanying documentation. |
| 1.6 | We disagree with the suggestion that the Draft Bill would deal properly with the 0 – 25 age range. The widening of the age range to 25 has massive capacity and resource implications for local authorities. Local authorities simply do not have either the resources or the capacity to manage the implied responsibilities for this greatly increased cohort of young people. In particular, there are significant resource implications for local authority educational psychology services which play such a central role in these processes. In England, the statutory reforms have resulted in significantly increased demand |

	for educational psychology services and we foresee this to be likely in Wales also.
1.7	In principle, introducing a common format to extend from school to post 16 makes sense. However, this does depend on how, crucially, responsibility and governance work. The local authority's responsibility is a key issue here and it is our strong view that it is both unreasonable and unworkable to extend the local authority's statutory responsibilities into areas for which they hold no overall responsibility for governance or funding.
1.8	A further issue to note is that divergence of systems and definitions between England and Wales will result in complex cross border issues and potential incompatibility of systems when children and young people transfer between the countries.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Supporting comments

2.1	We welcome the emphasis on increased participation by children and young people and see this as a positive principle to be operated throughout the implementation of new procedures.
2.2	In principle we agree with the proposal to introduce a unified planning process, but disagree profoundly that the Draft Bill, as constituted, would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs).
2.3	In particular, the Draft Bill, supported by the accompanying documents including the Draft Code of Practice, fails to set out any clear framework or specific processes to support the implementation of IDPs. This concern is a general one about the Bill and accompanying documents and is one that will be referenced further in responses to the other consultation questions.
2.4	In our view the framework and purpose should be based firmly around identification, assessment and provision for ALN and should incorporate a core emphasis on a graduated response to support, assessment and provision for ALN. One issue is that the Draft Bill and accompanying documents seem to lack a sufficient focus on education and educational needs and provision.

- 2.5 One possible reason for this is the central role given to person centred planning in the draft Bill. In our view PCP has an important, but very much subordinate role to play. It is a useful approach to help understand a child or young person's perspective, any potential barriers to learning and to help set realistic and appropriate targets. The understanding gained can also help to select or adjust the approaches and provision harnessed to address the identified needs and achieve the targets set. However, it is not in itself an adequate framework to manage the assessment, planning and provision processes for children and young people with ALN.
- 2.6 The Draft Bill and accompanying documents do not specify in enough detail the range and availability of specialist support services that are needed to support schools and FE institutions in delivering the graduated response. Here we make the point that educational psychology services are of great value, not just to schools, but to children and young people and their families, in understanding and providing for ALN properly.
- 2.7 In contrast to the lack of clear framework and processes in the Draft Bill, the previous Education Act and accompanying Code of Practice provide huge specificity and clarity about the underpinning processes of assessment and provision at all levels from a school based IEP to a statement of SEN.
- 2.8 As noted above, the Draft Bill, and Draft Code of Practice, pay insufficient attention to the core conceptualisation of the process. The process, in summary is about identifying, assessing, planning and providing for additional learning needs and then reviewing and revising those plans as necessary.
- 2.9 The root process underpinning the current legislation and Code of Practice is assessment, supported by the concept of a graduated response with schools and, ultimately, local authorities, basing decisions about the next step in the process on the outcomes of the previous step.
- 2.10 The graduated response sets out a conception of a school-led and initiated assessment process that starts with the expertise of staff dealing directly with the pupil but gradually proceeds to engage with more specialist staff, initially within the school but ultimately from external support services. All staff involved thus contribute to developing a clear understanding of a child's additional learning needs. Decisions to engage more specialist assessments and interventions are based on either lack of positive response to the current plans and provision or in response to evidence about the severity and complexity of the additional learning needs.
- Educational psychology services are crucial support services that operate at school action plus and statutory levels. The assessments and advice provided by educational psychology services are frequently central to decisions about levels of need and provision. These assessments and interventions also provide essential evidence to support formative planning at the school level. In addition there are other educational support services that also play a crucial role, such as speech and language specialist and HI/VI specialists, and it is

our view that these contributions should be properly referenced and specified through the Code of Practice, if not in the Draft Bill.

- | | |
|------|---|
| 2.11 | The current legislation and Code of Practice lead naturally to a delineation of responsibility between schools and educational settings on the one hand and the local authority on the other. The local authority becomes responsible for initiating statutory assessments when presented with sufficient evidence of the severity and complexity of a child or young person's additional learning needs. As noted above, educational psychology services play a vital role in providing properly evidenced assessment information to help local authorities make well informed decisions about when to take on responsibility for pupils' ALN. |
| 2.12 | The concept of a statutory assessment, which is not properly replicated in the current proposals for a local authority taking on responsibility for an IDP, includes clear prescription of the core and additional assessments which should be undertaken to properly understand a child's severe and complex additional learning needs and which serves as a basis for decisions about provision and placement. This issue is discussed at 7.6 and 7.7 below. |
| 2.13 | The current proposals should set out in far greater detail and structure how assessment processes at all levels should underpin and contribute to the development of IDPs. |

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input type="checkbox"/>
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Supporting comments

- | | |
|-----|--|
| 3.1 | We agree that children and young people's best interests should be protected and promoted, but would argue that the central focus of the question should be on whether the Draft Bill enables children and young people's educational ALN to be properly identified, assessed and met. |
| 3.2 | As stated above, we disagree that the interests of children and young people with additional learning needs would be protected and promoted by the Draft Bill. Please see our comments under Questions 1 and 2 above. Without a clear framework, structure, processes and accountability, including clear descriptions of how and which assessments should be made and carried out there can be no confidence that children and young people's additional learning needs can be properly understood. And if these needs are not properly understood, there can be no confidence that they can be provided for or met properly. |

3.3	We would note that the current legislation and procedures, if properly carried out, do protect and promote the interests of children and young people with additional learning needs, principally because they are highly structured and specified and focussed on identifying, assessing and meeting children and young people's ALN.
3.4	Children with severe and complex additional learning needs will continue to require a full multi-disciplinary assessment and planning process. However, children and young people with mild to moderate additional learning needs, who do not require a full multi-disciplinary assessment and planning process, will still require proper identification, assessment and planning processes matched to their level of need. Many of these young people may benefit from more specific or tailored educational plans rather than full IDP formats, rather in the way that the current IEP allows for the construction of targeted, specific educational interventions. As we have argued above, educational psychology services are one of the central resources available to schools at school action plus to support this work at the school/IEP level as well as at the statutory level on behalf of the local authority.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree Disagree ✓ Neither agree or disagree

Supporting comments

4.1 While we note and support the drive to collaboration contained within the Draft Bill and accompanying documents, we are concerned that collaboration must be underpinned by great clarity about responsibilities and supported within a clear legislative framework.

4.2 The current framing of the Bill allows for much potential disagreement between children and young people, parents, schools or other educational institutions, and local authorities, about who should have responsibility for drawing up and maintaining an IDP and on what basis this should occur, on what it should be based and what it should contain.

4.3 In particular we wish to reiterate previous concerns expressed in relation to the basis for future collaboration with Health in relation to the delivery of speech and language and other paramedical therapies in general. The Draft Bill and accompanying documents place no discernible obligation on Health to either to carry out assessments and provide information in a timely manner or to provide services other than those which they have already promised to deliver.

4.4 A particular case in point is when a case is subject to decision by the Tribunal.

In these cases there remains no obligation on Health or other agencies to provide in line with the decision and the full burden therefore falls upon Education.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Supporting comments

- 5.1 In taking the view that the Draft Bill does not support any reduction in potential disagreements or promoting earlier disagreement resolution we reference the points made above in response to all previous questions.
- 5.2 It is our view that the greater the clarity about structure and process, the less likely is the prospect of disagreement and dissatisfaction. Because the Draft Bill is vague and imprecise in so many areas it is likely to make conflict and dissatisfaction more likely.
- 5.3 We support the aspiration of avoiding disagreement and resolving disagreements as early as possible in the process but would maintain that the conception of a mandatory disagreement resolution step prior to Tribunal is desirable.
- 5.4 However, we are very concerned that widening the formal right of appeal to Tribunal, as set out in the proposal, would imply a massive increase in the number of cases that could potentially go to Tribunal. This issue will of course be exacerbated by the relative lack of clarity around responsibilities in the boundary areas between, for example, school and local authority. Increased referrals to Tribunal will, of course, place an increased burden on the limited and reducing resources of the Local authority. We would note that it is frequently staff from local authorities' educational psychology services who play a central role in tribunal hearings, both as representatives and witnesses. This is because it is often the educational psychologist who has the best informed and most holistic overview of a child or young person's ALN. Any expansion in this work has implications for educational psychology service capacity in delivering the role.
- 5.5 We agree in principle with the aim of children and young people being fully supported in having their views heard and their best interests met through the use of case friends and, as necessary, independent advocacy. However, we are concerned that the current lack of clarity and specificity might lead to greater reliance on advocacy services, because of the greater potential for disagreement. We note that in practice it is often the educational psychologist who performs this role for the local authority precisely because of the skill set,

knowledge and understanding he or she holds. This element of the work also implies greater demand on limited educational psychology resources.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Supporting Comments

- 6.1 At this point we wish to reiterate some of our core concerns. These extend to the content of the supporting documents including the Explanatory Memorandum and the Draft ALN Code of Practice.
- 6.2 As noted previously, we do not consider that the current Draft Bill and Draft Code of Practice properly incorporates the conception of a graduated response and highly specified approaches to identification and assessment. We argue that this should include specification of the specialist education support services, including educational psychology services, that local authorities should be required to ensure are available to support the work at all stages.
- 6.3 We note that full multi-disciplinary assessment will continue to be required for children and young people with severe and complex needs to ensure that these are properly understood and met. At the levels that currently constitute school action and school action plus, the processes may be expected to be led by schools but to incorporate the contribution of external agencies and this element is not properly described within the current documentation.
- 6.4 The strength of the current system lies in the clear specification of the graduated response with clearly defined attendant responsibilities and absolute clarity about the process of statutory assessment.
- 6.5 If The Draft ALN Bill and Draft Code of Practice are not significantly developed there is a real danger that the good practice represented in the current Code of Practice may be lost to the detriment of children and young people with additional learning needs.
- 6.6 We take the view that the explanatory memorandum significantly underestimates the impact for local authorities both in terms of workload and finance.
- 6.7 As noted in previous consultation responses, we remain concerned that local authorities are being tasked with accountability for significant areas of

responsibility over which they have little or no control, given that school funding is largely delegated and the governance of the further education sector lies outside local authority remit.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Supporting comments

- 7.1 It is our view that the Draft ALN Bill and Draft ALN Code of Practice need a fundamental review and rewrite to focus far more specifically on identification, assessment and provision for additional learning needs as we have noted above.
- 7.2 We would wish to make a strong point that the proposed timescales for the production of IDPs, while probably reasonable for schools meeting lower level additional learning needs, such as those encompassed by the current IEPs, are impossible for either schools dealing with more severe and complex additional learning needs or for local authorities in all cases.
- 7.3 At higher levels of severity and complexity schools will need to seek external assessment and intervention to inform their understanding of a child or young person's additional learning needs and this will take time. A local authority will inevitably be fully dependent on the provision of assessment reports and advice from external specialists and these pieces of work take time to commission, carry out, record and return. In this context we reiterate our view, which is supported by parents when surveyed, that educational psychology services are frequently the key local authority advisory service at both school action and school action plus.
- 7.4 The suggestion that IDPs should be issued without core pieces of advice undermines the principle of working in the child or young person's best interest. If ALN are not properly understood they will not be properly provided for.
- 7.5 It is worth noting that the timescale contained within the English Code of Practice for the production of an EHC Plan is 20 weeks, recognising the requirement for multi-disciplinary assessment and the bringing together of a variety of professional assessments to reach a holistic understanding of a child or young persons' additional learning needs.
- 7.6 We also wish to express a strong view that, at least at the level of the local authority IDP, there should be absolutely clear specification of the required advice providers who would contribute to the multi-disciplinary assessment to inform an understanding of a child or young person's additional learning needs. We would note that the current Code of Practice makes this absolutely clear, as does the new English Code of Practice.

7.7

It is our view that core advice providers should include the parents and child, the educational perspective from school or specialist, an educational psychology perspective, a health perspective, including additional specialist contributions such as speech and language or occupational therapy etc and a view from social services as necessary.

7.8

We welcome the increased emphasis over recent time on the contribution not just of parents but to ensure that the voice and views of the child or young person are central to both the assessment process and decisions regarding provision and placement. Notwithstanding this, we would argue strongly that without the core advice providers set out above, it would be impossible to reach a reliable understanding of a child's severe and complex additional learning needs since each contribution is distinct and complimentary to the others.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Gail John

Organisation (if applicable): NA

e-mail/telephone number:

Your address: 27

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I agree that the definitions of ALN and ALP appropriately reflect the intended focus on educational needs.

However, there are many gaps which need to be addressed before it can deal properly with the age range it sets out to capture.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of IDPs if the child was fully involved in the process. SENCOs need to be trained in the principles and importance of full child participation and listening to the voice of the child.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I agree on principle that the Bill would promote the interests of children/young people. It is a shame that there are still gaps in the Bill. For example, if the Bill is to protect young people up to 25 – then why doesn't it take university provision into account? Also, it does not safeguard every ALN child's right to an education, since there are many of these children found in the home-schooling population. Home-schooling rose 14% in Wales last year. 56% of exclusions are due to children's ALN provision not being adequately met. The Bill makes no provision for home-educated ALN children. CAMHS services are also being cut, which will possibly see a rise in another rise in home-educated children unless schools improve their services and become more inclusive in their delivery towards meeting the educational needs of all children .

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Agree in principle, as long as it's not merely a paper exercise by schools. The child/young person should be put central to the process. Multi-disciplinary dialogue is required as well as a willingness to learn from other sectors and develop a more inclusive approach to supporting the child/young person.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

LA's break the law now by refusing to statement and send forms back to SENCOs. Where is the accountability now? Where is the assurance in the new Bill to show that needs and provision will be met? There are too many gaps in the proposed ALN Bill and I envisage parents will seek independent assessments. This will increase the amount of schools being taken to court by parents/solicitors for failure to meet a child's educational need. Solicitor firms and independent advocacy services have already spotted the gaps. It could be highly embarrassing for Wales, unless the Bill tightens its hierarchy of responsibility and accountability for ALN provision. Welsh children are already sent to England to receive educational provision that is not available in Wales (eg. A number of Welsh children attend a Deaf School in Exeter as no provision in Wales).

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

NA

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Related issues

- Multi-agency partnerships, better working together/training for the sake of putting the child's needs first. All sectors need to network effectively. There is no room for ignorant Head teachers who think they can go against a diagnosis or ignore the urgent advice of medical practitioners, just because they think they know better than medically trained doctors

- and speech therapists. There should be steps in place to eradicate this ineffective and highly unprofessional practice in Wales.
- Home-educated children with ALN – how can they access services? There is no provision for this in Bill.
 - If LA's continue to refuse to provide suitable ALN provision/services, this will put schools at risk of being taken to court directly by parents without the legal backing of the LA. Unless, this ALN Bill is properly thought through, it could be highly embarrassing for Wales!

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These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The definitions of ALN and ALP set out in the draft Bill do reflect the focus on Educational need. The draft Code supports this. For Speech and Language Therapy the draft Bill and Code fail to state whether speech, language and communication difficulties are an education or health need. Previous case law has stated that they are an education need. This will need to be clarified.

The draft Bill reflects how it would deal with the age range it sets out, within an education context, but not necessarily a Health context. In Health services, individuals would transfer to adult services post 18 or 19. Within Speech and Language Therapy services, adult services are unfamiliar with Education services or with the SEN/ALN processes and will need additional resources to support training and development in the ALN process. Adult services, in Speech and Language Therapy, are structured around diagnostic teams providing for acquired rather than developmental communication difficulties. Their current capacity will not be able to meet the additional demand. New services would need to be commissioned and established to provide input to those young adults aged 18-15.

The draft Code provides more information on providing for the ALN needs of individuals who are pre-school. The role of Designated Medical/Clinical Officer will be key for effective identification of pre-school pupils to the LAs. Will monies be made available for the commissioning and establishment of this post ?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- The draft Bill does not clarify whether all IDPs will carry a statutory responsibility. The draft Code does not clarify this either. Do IDPs set by maintained schools have the same statutory protection as IDPs set by LAs? Previous consultations have said they would but it isn't clear from this Bill or draft Code.
- The draft Code provides more information on how and when IDPs will be maintained and reviewed. The recommendation that professionals are given an indication of the priority for their attendance at reviews of IDPs is useful.
- Neither the draft Bill or Code state who will take responsibility for overseeing and monitoring the appropriacy and content of IDPs. Will the quality of IDPs be monitored under school and LA inspections?
- It is not clear how Speech and language therapy will contribute to the IDP's in particular at the preparation and maintenance stages. If attendance by the SLT is required at IDP reviews this has implications for staffing and can not be achieved without the commissioning of additional SLT posts.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- The draft Code does clarify that funding for additional support from a non- education service, such as Speech and Language Therapy, should come from Health services if agreed by Health in the IDP.
- The draft Bill and Code identify voluntary third sector organisations as being key supporters for parents engaging in the ALN process. Is there sufficient capacity within these organisations to provide the support which they may be asked for?
- The draft Bill fails to provide detail on how the interests of individuals with ALN would be protected. Who will monitor that IDP's are fit for purpose and completed?

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Where Health services, such as Therapy services, are the only people who can provide what is stated in the IDP, the draft Code does clarify that Health will be responsible for providing what is stated in the IDP, if Health have agreed. Lack of clarity over responsibility for funding has previously been a barrier to agencies working together.

It needs to be clarified whether speech, language and communication difficulties are considered to be an educational or health responsibility. If it is considered to be both it needs to be stated how the agencies will share the responsibility for this.

The role of Designated Medical/Clinical Officer (DM/CO) will be key in enabling agencies to work together. This role will be essential for Health to engage effectively in providing to IDPs. At present the demand for IDPs and the demand for DM/CO involvement is unknown but it is likely that the demand will be high. The requirement for this role to have strategic and operational responsibility means that the post will require a high level of skill and responsibility. This post will need to be commissioned and established.

One of the key areas of difficulty affecting how agencies work together is means of communication. Currently Health Boards and Local Authorities cannot send patient identifiable information electronically to each other because of security risks and differing IT systems. Welsh Government plans for shared information systems between Health and Social services do not include Education services. This impedes effective and timely communication.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Draft Bill and Code state that LAs must make arrangements to avoid disagreements. If the LAs are responsible for these arrangements they may be perceived by parents as not being objective which could discourage engagement. An independent organisation with responsibility for resolution of disagreements, prior to Tribunal, would be more subjective and parents may engage more. The LAs should not be responsible for monitoring the quality of disagreement resolution arrangements, this should come under Tribunal body.

The draft Code refers to no inference being drawn by Tribunal if a child or family refuses to engage with the disagreement resolution arrangement, which would question the validity of the disagreement resolution arrangements existing. All parties should be required to have demonstrated engagement with the disagreement resolution arrangements before they can progress to Tribunal.

The current appeals process does not consider the specific professional knowledge of those providing the advice on an individual's need. The draft Bill or Code does not indicate that the new process will be any different than the existing one.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The draft Code provides much more clarity on the Bill and the detail for the proposed changes. Opportunities to feedback and comment on the draft Code as a separate document will be important in ensuring a quality document which is fit for purpose. Case and format examples, in the Code, would be beneficial.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The Bill states that there will be a requirement for training on the new ALN process. This training would need to include Health services, such as Speech and Language Therapy, in order for the ALN process to be implemented effectively.

The proposed ALN process will cause issues for Health, services such as Speech and Language Therapy, including:

- Increased time commitment
- Increased demand on limited capacity
- Training in light of the new process but also due to the broadened age range.
- Insufficient staffing levels to cope with the potential increase in demand.
- Services not existing to provide input to the age range 18-25.

The role of Designated Medical/Clinical Officer (DM/CO) is key for Health services. This post will be responsible for all Health input into IDPs including co-ordinating all professionals' advice, securing the financial commitment and identification of pre-school children with ALN. This role is complex and at present there is no clear information regarding which children would be referred to this professional and no indication of how big the caseload could be.

With a focus on Health Boards agreeing what is required from their services and being financially responsible to provide, there is a risk that services are forced to write IDPs based on the service capacity rather than individual's need. Will Therapy services only be able to provide to individuals with ALN due to the demands on capacity?

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Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

These definitions give little clarity on the need for a graduated response to additional learning needs. The terms now being proposed create even greater confusion than those used at present.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

No.
IDP's are a good means of starting the support of youngsters. However, there is no entry and exit criteria so they are no use. Although the aim of the bill is supporting individuals it does nothing to identify these students.
We unfortunately live in a 'label' culture, parents in particular want a label. Entry and exit criteria are therefore essential if professionals are to make the code work.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The bill creates no graduation of response.
The present system allows for graduated responses and therefore a concentration of effort and resources to where they are most needed. This creates a system which is open to all. It is therefore in my opinion unmanageable on the ground and in school.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I don't see any changes to the way in which professionals work together to support young people. The present system lacks clarity and this does nothing to improve the present position.
The confidential nature of health policies will make many of the information sharing exercises futile.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

If anything the bill does the opposite. As there are no entry and exit criteria, who decides on a right of appeal. If health will not share information, confidentiality, how can anyone have a full picture?

The whole bill seems to focus on the school being the primary support, yet we all know multi agency working is the key.

In addition, in a system facing huge cuts to funding, the lack of graduated support will inevitably lead to little or no support. Or worse still a situation where the support for a young person will depend on the financial position of a school or the schools individual view of support. It becomes fragmented and not a national response.

Question 6 – Supporting documents

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Entry and exit criteria.

Full clarity on funding mechanisms.

Clarity of the lead practitioners in the support of youngster.

Clarity on information stored on individuals and the interventions being used, to enable a safe sharing of information when youngsters move establishments.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

This bill fails to address the key area of concern, meeting the needs of the learner in a graduated response.
It also relies very heavily on the school at which a young person studies. This puts the provision on offer at risk of being fragmented, depending on the school.
The provision of the bill to have one senior member of staff responsible for ALN with no other responsibilities is completely unworkable.
Funding would not allow this, we have insufficient staff trained to undertake the responsibility and senior leaders in school have diverse roles, having one person to oversee just this aspect would defeat all logical processes already in place for the school.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Julia Green
Learner Support Manager / ALNCo

Organisation (if applicable): Coleg Sir Gar

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

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	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	X <input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
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Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
	X				

Supporting comments

The Bill will provide a standardised approach and definitions that can be used and implemented universally to eliminate ambiguity.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
					X

Supporting comments

The Bill has the potential to create a robust framework to place the learner at the centre of this planning and development process.

However, it is questionable as to whether it will work effectively and consistently in practice. Individual responsibilities would need clarification so that all professionals understand the expectations and work commitment / input for an effective system. These roles and responsibilities would need to be agreed and defined otherwise the process will be mis-managed and ineffective.

This framework has a significant impact on resources (staffing and time)

management) so funding this process will have implications. Therefore, it will need to be an investment to identify and meet the needs of the learner.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
	X				

Supporting comments

The Bill would provide a standardised and hopefully consistent approach to protecting and promoting what is the best interest for the learner in terms of diagnosis, support systems and recommendations for individual progression through the education system.

The concern is that under the new Bill there would be potentially no parental involvement or decision making for post-16 learners. This decision requires serious consideration in terms of whether a young adult can make informed and realistic conclusions about their education which will require monitoring and reviewing with the focus on progression. There needs to be criteria that allows parents of learners with complex needs the right to involvement and decision making.

However, there is also the concern that too much parental input can over-influence the system and reduce a learner's independence and development.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
					X

Supporting comments

The proposed process has the potential for improved collaboration between agencies. Additional resourcing would be required by all agencies to meet the increased workload in terms of attending review meetings, inputting data and creating action plans.

From a FEI perspective, this collaborative approach would allow the learners greater access to external agencies and specialist resources would be advantageous.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/> X
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Supporting comments

Further clarity is required before a conformed decision can be made / voiced regarding this question.

There could be the potential for further disagreements rather than less in terms of recommending, accessing and funding local provision as opposed to more specialist provision to meet the needs of learners with complex needs.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The supporting documentation (to date) to clearly presented with

coherent and detailed information and guidance regarding the new Bill.

Once finalised, the release of documentation will be imperative in terms of detailing the role and responsibilities of professionals to create a consistent approach.

Personally, I feel it would be essential for the Welsh Government to compile and generate a standardised format for the IDP in terms of consistency and accessibility.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The new Bill will create a PCP (Person-Centred Planning) approach and system with the IDP (Individual Development Plan) as a core evidence base for identifying and planning for learners with Additional Learning Needs. The IDP will lead to increased provision which will be monitored and reviewed. A multi-agency collaborative approach is advantageous to ensuring the needs of the learner are defined and met consistently.

However, specific issues need to be addressed in order for the Bill to be effective and streamline.

1. In terms of learners with mental health difficulties, how will the new IDP benefit them in terms of support provision as the current system is inadequate to meet the demand? Will there be an increase in services and specialist support staff which poses a training and funding issue.
2. In terms of information sharing, will there be an electronic system so that relevant professionals and specialists can access the documentation.
3. There is the proposal that the new Bill will replace the existing LAC review. It would be good to incorporate this system but a coherent format would need to be agreed in terms of giving a notice period, transition and integration into a new education establishment. There is potential for the learner to adjust to college life which could impact positively on retention and progression.

4. The new Bill creates a need for adequate training and resourcing for the designated ALNCo to establish a level of expertise while compiling and monitoring the legal documentation. There is an impact on training teaching and support staff in terms of training.
5. There could be a greater impact on estates in terms of building modification if additional learners with more complex needs are required to be educated in FEIs - (cost implications).
6. Transporting learners to FEIs need to be reviewed as the costs of taxi provision are unsustainable. In terms of increasing independence and progression, transport training for example needs consideration.
7. The funding of personal care for learners is currently inconsistent and agencies need to agree on who will pay for these additional costs i.e. the FEI, local authority or the health authority.
8. The new Bill should provide a realistic timeframe that will allow for longer-term planning. It will provide education / FEIs with an agreed framework and time frame to make reasonable adjustments to meet the needs of learners, placing the FEI on a similar par with schools.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Liz Cole

Organisation (if applicable): Tiddlywinks Childcare Centre

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

This draft Bill is very aspirational and details much of what we'd sign up to but is very sketchy on the practical mechanics for implementation and delivery. There are gaps and concerns within the age group identified, particularly early years and young people not in further education but might want to further their education through work based training or higher education such as Universities. How would children and young people in these categories be assured of support?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Sounds good but is it achievable – in practice will there be sufficient resources and manpower to enable a robust legal framework when potentially 1 in 5 children in every class could fall within the category of ALN.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

No one within the sector would disagree with the aspirations of this draft Bill – but concerns over realistic and practical delivery remain. If properly resourced and financed, it will be achievable and reflect that the needs of every child are taken into account and addressed, if the resources nor the funding is available it will continue to rely on the goodwill of individuals who will go over and beyond an already heavy workload to ensure each child has the very best opportunities to achieve and we will continue to find pockets of good delivery across Wales and areas where support will remain patchy or non existent.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I can see no robust evidence to be assured that this will be improved, unless every agency is legally bound to contribute and participate rather than asked to agree to participate provide input.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly funded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Whilst the draft Bill is aspirational in all areas, the lack of clarity and detail to back statements up on the mechanics of its delivery, leave one cautious in providing comments as we remain unclear as to how it will happen. Certainly if the aspirations can be met and achieved and areas of unclarity surrounding the support and provision within early years and for young people not necessarily in further education but attending other forms of educational training are addressed, clarity over CASE FRIEND, etc, the draft Bill will be welcomed wholeheartedly.

If, as is perceived that 1 in 5 children would fall under ALN – the potential explosion of IDP's and all that goes with these unless fully resourced could result in an ineffective service particularly if appeals are not heard for months due to numbers.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Mike and Chris Newman

Organisation: Socialist Educational Association Cymru

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- 1) We welcome the extension of Additional Learning Needs (ALN) arrangements to age 25 and the wish to improve transition between phases and between schools and Further Education (FE) institutions. We also welcome the emphasis placed on the use of maintained mainstream schools.
 - (a) *Will there be specific funding for the extra years and meetings that will be necessary?*
 - (b) *Are there sufficient facilities in mainstream schools to resource Additional Learning Provision (ALP)?*
- 2) The significance of changes in terminology (such as SEN to ALN, SENCO to ALNCO, statement to IDP and SEN tribunal to education tribunal) remain to be worked out.
 - (a) *Do the changes represent a real change in meaning or are they simply terminological?*

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

- 1) We agree that the current statementing process is bureaucratic, time consuming, costly and variable between schools and local authorities (LA).
 - (a) *What are the costs of the new process?*
 - (b) *What will be the implementation costs including appointment of new staff, training for all teachers and support staff and specialist training for ALN coordinators (ALNCO) and ALN assistants?*
 - (c) *Preparation of Individual Development Plans (IDP) will be a complex procedure (see draft ALN Code pages 51-92). May it not be as time consuming and costly as the preparation of statements?*
- 2) Additional school responsibilities for planning and maintaining Individual Development Plans (IDP) may make it easier for parents, children and young people to become involved in the process. There is also a possibility that schools will become engaged in disputes, appeals and litigation and may not be able to use the LA as a disinterested umpire.
 - (a) *Will relationships between school and parents be affected by schools deciding what pupils have ALN and what provision is necessary or feasible?*
 - (b) *Will there be problems arising from litigation against schools, as suggested by Michael Charles of Sinclairslaw (Western Mail 19/11/15).*
 - (c) *Will the LA, as corporate parent of looked after children, be able to appeal against LA decisions on IDP and ALP?*
 - (d) *Will there be a school LA regress with schools maintaining that they cannot reasonably afford AL Provision, yet the LA, when appealed to, demanding that it must?*
 - (e) *Similarly is there scope for deadlock between LA and other bodies when they insist that they cannot reasonably provide a service that the LA requests?*
- 3) The relationship between school responsibilities, LA responsibilities and LA oversight and judgement of appeals is not yet clear and will have to be worked out in practice, as will the role of the Education Tribunal (Wales).
 - (a) *What is the expected rate of appeals to the LA?*
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 - (c) *Will head teachers be tempted to avoid the expenses of ALN or the impact of special needs on school performance statistics?*
 - (d) *What will be the effect of parental litigiousness?*

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We applaud the attempt to involve parents, children and young people by the production of easy-read summaries and consultation documents. We welcome the aspirations behind the draft legislation, in particular the attempt to bring together all forms of ALN and all forms of provision including health and social services as well as education. We also welcome the recognition that ALN provision is not separate but is part and parcel of good teaching and learning and is the responsibility of all teachers. We hope that resources will permit the achievement of some at least of these goals.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	
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Supporting comments

- 1) We also welcome attempts to foster cooperation between schools and LAs and other services which may help children and young people with ALN (such as health bodies and local authority social services).
 - (a) *Will this be possible given the current transitional state of the various bodies involved?*
 - (b) *Do Local Health Boards, NHS Trusts, NHS Commissioning Boards, Clinical Commissioning Trusts and NHS Foundation Trusts have the willingness, finance and expertise to fulfil the role of Designated Medical or Clinical Officers (DMO or DCO)*

page 13 draft ALN Code)?

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

1. We note that some responsibility is to be transferred from local authorities to governors of schools and FE institutions, although it is not clear in practice where the dividing lines will be. Responsibilities of LAs are potentially great but not fully specified.
 - a. *What LA costs are anticipated? Are LAs expected to be proactive in assessing suitability of school assignment of ALN status and provision?*
 - b. *Will LA expertise be reduced and what will be the impact of this?*
 - c. *What role is envisaged for Educational Psychologists (who are mentioned only in passing (page 15, bullet point 9, section 45 draft ALN Code)?*
 - d. *How many school IDP or refusals to recognise ALN will be liable to be referred to LA on appeal?*
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 - f. *Will there be a role for LA monitoring of ALN recognition and provision?*
 - g. *What is the expected workload of the Education Tribunal (Wales)?*
 - h. *Who will judge the suitability for registration of independent schools, monitor and administer links with them and other outside bodies (such as other LA departments, NHS and cross LA and cross nation providers)?*

Question 6 – Supporting documents

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

1. The change will involve a large training programme, which is to be welcomed, although many questions remain about the provision, scale, cost and timing of such training.
 - a. *Who will train the trainers?*
 - b. *Will they come from Higher Education? In which case how will they provide recent, relevant and substantial special needs experience?*
 - c. *What will be the role of LAs given the outflow of staff from LA to consortia?*
 - d. *Will Educational Psychologists and LA special needs teams be recreated to fill the gap?*
 - e. *Will consortia contribute? Or private consultants?*
 - f. *Will school staff be expected to provide in-house training?*
 - g. *Will school expertise be shared in clusters?*
 - h. *Will teacher time be released by the use of supply teachers, by planned use of the school budget, or by ring-fenced delegation by the LA?*
 - i. *Will schools be obligated to appoint dedicated ALNCOs? What qualifications will be available for ALNCO? Will they be phase specific?*
 - j. *How will the ALNCO's work be preserved in small schools? Will there be non-teaching time for administration? For meetings? For preparation and implementation of training?*
 - k. *Will there be provision for assistant ALNCOs in primary phases and secondary departments?*
 - l. *Will there be arrangements to help small schools? Or to allow cooperation between clusters of schools?*
2. Issues like maternity and sickness are best dealt with by an insurance type system in which risks are amalgamated and dealt with centrally.

- a. *How will variations in demand for ALN be coped with?*
 - b. *Could a mutual system operate in ALN for needs that crop up rarely or involve high expense in provision or modification of school premises?*
 - c. *Is there scope for adding specialist AL Provision (such as toileting or shower provision, soft play experience, physiotherapy pools, lifting gear) to designated mainstream schools?*
 - d. *What possibilities are there for sharing for conditions such as spina bifida, autism, physical disability, mental health issues, hearing or visual impairment?*
 - e. *Does parental choice (e.g. in appeals for popular schools) cut across and sabotage specialist provision in designated mainstream schools?*
3. Many other changes are referred to, for example in the Forward by the Minister to the Draft Act and Educational Tribunal (Wales) Bill. It remains to be seen whether all these changes can be coped with in the timescale (5 years) and given the likely resources available. Changes include:
 - a. *Donaldson's radical change in curriculum: will all children be able to follow the progression steps (when they are formulated) at their own pace?*
 - b. *"Teaching Tomorrow's Teachers", John Furlong's report on Initial Teacher Training: do we still have the expertise to implement this?*
 - c. *"New deal for the education workforce": will resources be available for the training necessary to implement this?*
 - d. *"An assessment of SEN workforce's development requirements": will it be possible to implement the new ALN Code?*
 - e. *New agreements with schools and LA on 'Person Centred Practice': will all teachers be able to make the necessary changes in teaching and learning implied by this and by "Qualified for Life"?*
4. There are a number of areas of the draft Act and the illustrative ALN Code where further work is promised.
 - a. *These include 'looked-after children' (Consultation introduction page4), identification of ALN and ALN provision (ALN Code section 6) and 'specific bodies and settings' (ALN Code section 7): when will the additional material be ready?*
 - b. *How far will the ALN Code be able to cope with the needs of home educated children, children of service people, those in the youth justice system, those with health needs and those in Pupil Referral Units (PRU)?*
 - c. *Have traveller children been considered?*

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Comments and questions on the Draft Additional Learning Needs and Education Tribunal (Wales) Bill 2015

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Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Carolyn Evans

Organisation (if applicable): Welshpool High School

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
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Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Yes, I believe the age ranging up to 25 years is a fantastic improvement for transition through school and college etc to a secure adulthood, if the budget to implement it effectively is securely delivered.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I am concerned that the legality of the statutory nature of the IDP will put undo pressure on schools to deliver impossible targets without acceptable and flexible resources. Will the nature of something statutory become a hindrance to confident, creative, honest and exploratory support? However, the person-centred intention of the process has to be an improvement, that the needs of the child are paramount, even to the needs of parents/carers and professionals.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

As above, I believe that the new Code of Practice will allow for greater flexibility and fluidity of intervention and support.
However, there is a gap in service for some students with ALN, especially for ASD where a lack of coherent, flexible and regular review and support seems to found. The IDPs will hopefully fill this gap in service and be more fluid, with smoother transition between levels and areas of support as pupils progress and mature through school.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Definitely, yes. Agencies working more closely together will bring greater clarity and joined up thinking around each child, although some services will presumably be brought in and then move out again as needs change.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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				disagree	
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Supporting comments

My concern here is that, as I understand it, parents can go straight to Tribunal at the start of the process which may cause disagreement at the beginning too.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

One concern is the legal requirement under the IDP for all pupils, ranging from the old School Action right through to Statement. That may make schools etc reluctant to place concerns for pupils' lack of progress in an IDP because of workload. For example, I have over 40 pupils in Year 7 alone on a Code of Practice, only a few of which are making required progress at the moment. I am struggling to see how time can be correctly given to each individual throughout the school, especially if reviews are to be termly.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

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Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Kate Fallon, General Secretary

Organisation (if applicable): The Association of Educational Psychologists (AEP)

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division, Department for Education and Skills
Welsh Government, Cathays Park
Cardiff, CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	X
	Teaching Unions	
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The term Additional Learning Needs is to be welcomed and the definitions of ALN and ALP are very similar to those definitions in the current Code of Practice and to those in the English SEND Code of Practice. However the definitions are somewhat imprecise and so, whilst it will be important to have local flexibility and discretion, it is equally the case that the public as well as professionals will expect some degree of consistency across Wales and definitions must therefore be more fully addressed in the Code of Practice.

The extension of the age range from 0-25 is also to be welcomed providing the necessary resources are put in place in order to effectively meet the needs of all CYP with ALN and the Bill needs to provide more clarity regarding those children under 3 and those CYP over 19 years of age.

Under the current legislation Educational Psychologists (EPs) have a statutory role in assessing those children who are undergoing statutory assessment. Under the Bill and also the draft Code of Practice there will be no such requirement even when the CYP has complex needs.

Therefore the essential role of EPs in all complex cases referred to the LA *must be recognised* on the face of the Bill and/or in any associated Regulations, as well as in the Code of Practice, to ensure that children and young people in Wales have the same rights of access to an EP as those in England currently enjoy.

Educational Psychologists are highly skilled in providing independent, reliable and holistic descriptions of need for all CYP, particularly those with complex ALN, that is evidence based and from an in depth understanding of child development.

The Code of Practice should therefore also state that schools must consult with an Educational Psychologist *before* any case is referred to a LA. The wider role of the EP in supporting school staff at all levels including FEIs also needs to be explicitly recognised in the Code of Practice.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

A unified planning process is to be welcomed and the requirement that all IDPs are statutory adds to the robustness of the legal framework. However the processes for the preparation, maintenance and review of IDPs are not clearly set out in the Bill.

There needs to be a *graduated response to the assessment and identification of ALN*. In essence the original code was and is very clear about the processes and components of an effective and comprehensive assessment process based around the concept of a graduated response and increasing specialist involvement. This fundamental principle is not clearly stated in the Bill or in the draft Code of Practice.

Some school staff have expressed concerns about their ability to accurately identify ALN and offer appropriate early interventions without the advice and support of their Educational Psychologist. The ability for EPs to provide general training and professional development as well as specific advice and support will therefore need to be recognised as important to the successful implementation of this legislation.

As stated in response to question 1, the essential role of EPs in all complex cases referred to the LA must be recognised on the face of the Bill and/or in any associated Regulations, as well as in the Code of Practice, to ensure that children and young people in Wales have the same rights of access to an EP as those in England currently enjoy.

Moreover the Code of Practice should state that schools must consult with an Educational Psychologist before any case is referred to a LA. In addition the wider role of the EP in supporting school staff at all levels including FEI needs to be explicitly recognised in the Code of Practice.

Neither the Bill nor the Code of Practice specify the role of the institution or school in maintaining the plan in cases when the IDP is held by the LA. Without a more detailed description of the process it is difficult to see how the IDP can be a working document when held by the LA. There is a lack of clarity in how the LA will be able to secure provision in those cases when it holds the IDP particularly with regard to FEIs.

The emphasis on increased participation of children and young people is to be welcomed. It is essential that the voices of children and young people are heard in whichever manner is most appropriate for them and that all the CYP workforce incorporates the culture of listening within their day to day practice. Person centred planning meetings demonstrate good practice and must be resourced appropriately in order to ensure the effective formulation of IDPs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There is a clear focus on promoting the interests of children and young people with the emphasis on person centred planning and the concept that all IDPs should be statutory. However to achieve improved outcomes there is a need for more clarity in the whole process of preparing, maintaining and reviewing IDPs – see responses to questions 1 and 2 above.

The role of the ALNCo will be crucial and he/she must have appropriate qualifications and undertake relevant training and CPD. However there will be a need for the training of the school and FEI workforce to be sufficiently skilled in meeting the needs of CYP who have ALN. The role of the EP will be crucial in providing training and ongoing support and advice to ALNCos teachers, classroom assistants and others.

There are real concerns about the capacity issues raised by the extra demands of the new legislation in what is already an underfunded and under strain system. In practice, EP services will need to be properly resourced in order to meet:

- Statutory roles in complex cases including working with multi-agencies
- Increased training needs as well as ongoing CPD, support and advice to ALNCos, teachers, head teachers, classroom assistants and others in schools and FEIs (NB latter is new responsibility)
- Increased demands in helping and advising parents and carers as the new system will initially create increased anxiety and confusion.

The Bill will inevitably and quite rightly raises aspirations and expectations and the implications for the Educational Psychology workforce must include consideration of commissioning more university training places. There is also a need to ensure adequate funding for Local Authorities if the Bill is to succeed in improving outcomes for children.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In theory the Bill provides the basis for increased collaboration and planning but it is unclear how the IDP and any Health Care plans will link together. However in practice with ever decreasing resources it will be difficult to achieve significant improvements in the way that agencies work together.

There is a greater degree of clarity with regard to the role and responsibilities of other agencies and providers such as the Health Service in the way IDPs will be written (although there is no duty or statutory requirement for LHBs to be involved in the preparation and maintenance of IDPs for young people in FEIs).

It will still be difficult for parents and young people to complain if the appropriate provision is not provided by the relevant non LA providers as the Education Tribunal does not have any jurisdiction over non Education organisations such as the NHS. There is, therefore, still a lack of legal robustness in ensuring that the NHS and other organisations provide for the child's and young person's needs when required to do so.

As stated previously the requirement to fully involve children, young people and their parents in the planning process is to be welcomed. It is essential that the voices of children and young people are heard in whichever manner is most appropriate for them and that all the CYP workforce incorporates the culture of listening within their day to day practice.

Moreover a person centred approach and planning meetings demonstrate good practice but must be resourced appropriately in order to ensure the effective formulation of IDPs. Such approaches are time consuming and involve greater preparation and planning in order to be successful.

It should be noted that currently FEIs make their own arrangements regarding EP assessments by commissioning EPs who do not work for the LA and therefore LA EPs rarely visit such institutions. For those young persons with complex needs in future the LA will hold the IDP and this, along with the need to advise FEIs, will increase the workload of the EP.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill provides an appropriate framework for disagreement avoidance and resolution but there is an assumption that under the new procedures there are likely to be fewer tribunals as disagreements will be resolved at an earlier stage. However given that all IDPs are statutory there is the potential for a high use of advocacy and disagreement resolution services as parents try to ensure that their child receives the necessary support.

There should be an agreed review of the new system within a specified timescale to ensure that it is effective in helping to meet the ALN of CYP in a timely fashion and that it is fully accessible to all CYP and their families/carers when required.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Currently EPs have a statutory role in assessing those children who are undergoing statutory assessment. Under the Bill and also the draft Code of Practice there will be no such requirement even when the CYP has complex needs. The lack of a statutory role for EPs would mean that children and young people with complex needs in Wales will be disadvantaged in comparison to their counterparts in England.

The Explanatory Memorandum hardly references Educational Psychologists. The draft Code of Practice in its current form also rarely mentions EPs and when it does the work of the EP is given a low profile which, considering the essential nature of their role in the whole process of the identification, assessment and support of children with ALN, is very disappointing.

Of course the Welsh legislation differs from the English as it is taking a different, more comprehensive approach. However this lack of recognition of the role of the EP – on the face of the Bill or in the Code of Practice – should be addressed.

EPs are explicitly included in the Special Needs and Disability Regulations 2014 subsequent to the Westminster Parliament's Children and Families Act – see clause 6(1)(d). They are also referenced eight times in the English Code of Practice, often first in a list of those who are to have a mandatory role in assessing those who require a statement of special education needs. In comparison the current Welsh Code of Practice there are just three references and then only at the foot of a long list of other professionals.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

As stated in response to question three, the Bill will inevitably and quite rightly raise aspirations and expectations amongst the public and the media. However the implications for the increased pressure on the Educational Psychology workload, and therefore workforce, has not been properly considered.

In practice EP services will need to be properly resourced in order to meet:

- *Statutory roles in complex cases including working with multi-agencies*
- *Increased training needs as well as ongoing CPD, support and advice to ALNCos, teachers and head teachers in schools and FEIs (NB latter is new responsibility)*
- *Increased demands in helping and advising parents and carers as the new system will initially create increased anxiety and confusion.*

The Association of Educational Psychologists believe that if the Bill is to be implemented successfully, in line with the ambitions of the Welsh Government and the public's expectations, there will need to be more Educational Psychologists available. The EP workforce is already under capacity with regards to current demand (with 113 full time equivalents in employment across the 22 local authorities when there should be 138).

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Heather Duncan

Organisation (if applicable): Lewis Girls' School

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input checked="" type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

As someone who was part of the development back in the beginning of this work, I think there is a total lack of clarity with regard to the term ALN – and what it means for learners
SEN has achieved some level of clarity – this took years to achieve.
This new term was introduced in the ‘pebbles document’ as a potential vulnerability to underachievement (which I quite liked) – but does not help schools be clear which pupils it is addressing

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/> x	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Great in theory.
In practice, health has PARIS which doesn't communicates with SIMS (most school use sims)
Is there clarity and agreement on the role health professionals will play in the education process?

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

No bill by itself changes practice. This is a ‘hearts and minds’ job. Until there is a commitment to the NPQH, ITT and all other programmes addressing the issue of the needs of all learners as a mandatory component, it will still be left to those with the will to do it, who will do it

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It could – but it has to be the job of Welsh Government to make it happen – it wont happen because a bill is written!

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

No

Fundamentally this Bill potentially perpetuates the ‘he who shouts the loudest’ culture that already exists with SEN

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

I have spoken to people in Welsh Government regarding the research I undertook with secondary SENCos (there was no research in Wales, at the time) to get my doctorate

SeNcos are demoralised and continue to leave the professional role (All English research confirms this)

SEN has to be led by SLT – but that Does not mean that the SENCo is on SLT (the research showed that made NO difference unless the head committed!)

Removal of a graduated response is a cause for concern – is there sufficient clarity – are parameters clear?

Practitioners on the working group for this work all said that the SEN code needed to be ‘tweaked’ and more mandatory – what happened to their views?

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Don't ignore what practitioners are saying – that does not make for good, workable laws for our most vulnerable learners!

Dr Heather Duncan

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Dr Alun Flynn – on behalf of:-

Organisation (if applicable): Powys Educational Psychology Service

e-mail/telephone number: alunf@powys.gov.uk

Your address: Old College, Newtown, Powys, SY16 1BE

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	X
	Teaching Unions	
	Local government	<input checked="" type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The term Additional Learning Needs is to be welcomed and the definitions of ALN and ALP are very similar to those definitions in the current SEN Code of Practice and to those in the English SEND Code of Practice. The extension of the age range from 0-25 years is also to be welcomed, providing the necessary additional resources are available.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We would expect schools , Early years Settings & FEI to consult with Educational Psychologists at an early stage, rather than just for pupils with complex needs. The capacity of EP services should reflect this expectation. Especially, since the time scale for producing an IDP is shorter than the current statutory assessment.

One coherent process for the IDP is to be welcomed and the requirement that all IDPs are statutory adds to the robustness of the legal framework. However the processes for the preparation, maintenance and review of IDPs are not clearly set out in the Bill. It needs to be clearer and include more detail about the process.

There needs to be a Graduated Response to the assessment and identification of ALN. This fundamental principle is not clearly stated in the Bill or in the draft Code of Practice. Schools, settings & FEI should also demonstrate their commitment to quality inclusion .

The emphasis on increased participation of children and young people is to be

welcomed. One Page Profiles, and Person centred planning meetings demonstrate good practice and must be resourced appropriately in order to ensure the effective formulation of IDPs. Early years Settings, Schools and FEI should reflect the culture of Person Centred Practice, rather than just administering the bureaucracy.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x <input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There is a clear focus on promoting the interests of children and young people with the emphasis on person centred planning and the concept that all IDPs should be statutory.

The role of the ALNCO will be crucial and he/she must have appropriate qualifications and undertake relevant training and CPD. However there will be a need for the training of the school and FEI workforce to be sufficiently skilled in meeting the needs of CYP who have ALN. The role of the EP will be crucial in providing training and on going support and advice.

The Bill will have implications for the Educational Psychology Services, and WG must include consideration of commissioning more university training places. There is also a need to ensure adequate funding for Local Authorities if the Bill is to succeed in improving outcomes for children; especially during the change-over period.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/> x <input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill provides the basis for increased collaboration and planning but it is unclear how the IDP and any Health Care plans will link together. However in practice with ever decreasing resources it will be difficult to achieve significant improvements in the way that agencies work together.

Why is there is no duty or statutory requirement for LHBs to be involved in the preparation and maintenance of IDPs for young people in FEIs?

It will still be difficult for parents and young people to complain if the appropriate provision is not provided by the relevant non LA providers as the Education Tribunal does not have any jurisdiction over non Education organisations such as the NHS. There is therefore still a lack of legal robustness in ensuring that the NHS and other organisations provide for the child's and young person's needs when required to do so. .

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill provides an appropriate framework for disagreement avoidance and resolution but there is an assumption that under the new procedures there are likely to be fewer tribunals as disagreements will be resolved at an earlier stage. However given that all IDPs are statutory there is the potential for a high use of advocacy and disagreement resolution services as parents try to ensure that their child receives the necessary support.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Currently FEIs make their own arrangements regarding EP assessments by commissioning EPs who do not work for the LA and LA EPs rarely visit such

institutions. For those young persons with complex needs the LA will hold the IDP and this will impact on – increase - the work of the EP.

Currently EPs have a statutory role in assessing those children who are undergoing statutory assessment. Under the Bill and also the draft Code of Practice there will be no such requirement even when the CYP has complex needs. The lack of a statutory role for EPs means that Welsh children and young people with complex needs will be disadvantaged in comparison to their English counterparts.

The draft Code of Practice in its current form also rarely mentions EPs and when it does the work of the EP is given a low profile which, considering the essential nature of their role in the whole process of the identification, assessment and support of children with ALN, is very disappointing.

There is also an important role for EPs in providing CPD and support for school staff and particularly for ALNCOs.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: **Serennu Care Coordination Forum**

Organisation (if applicable): **A group of families and professionals from the Aneurin Bevan Health Board region**

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other – Serennu Childrens Centre care co-ordination Forum of parents and professionals	X <input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

This is three questions which we will respond to separately:

We agree that the definition of ALN is appropriate for the majority of children / young people however we do not agree that it covers those children / young people who do not have a learning difficulty but who do have support needs to access appropriate education e.g. children with physical disabilities / sensory difficulties / ASD with good cognitive abilities.

We are also concerned about the use in section 2(a) of 'significantly greater' – how is the divide between complex and less complex needs made?

We agree that the ALP definition broadly reflects the intended focus on education needs but we are concerned that there is a lack of clarity in relation to provision for children aged 0-5 who may be accessing pre-education services e.g. speech and language therapy / portage / vision and hearing services / flying start / PPA.

We are also concerned that funding to support nursery placements in order to identify levels of needs for individual children with ALN is not a legal requirement. This can delay identification and therefore provision. This can be combined with delays in accessing health diagnostics which also impacts on access to educational provision.

Who is responsible for making the assessment / identification of need at pre-school / post 16 levels? Is it an ALNCO?

We do not agree that there is clarity about how the draft Bill would deal appropriately with the age range it sets out to capture. There is a lack of clarity about the provision for those aged 16-25 years. Who is eligible for provision in this age group? All young people with an ALN or only some? What about those aged 16 with an ALN who go to college and their support needs are dependent on the knowledge and skill mix of education staff at the college? How are their support needs to be provided for in a way that is equitable and transparent?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We do not agree that the draft Bill creates a robust legal framework in respect of IDPs.

- There is no obligation for outside agencies (health and social services) to contribute to and make provision for children within the IDP framework.
- The language in this section is ambiguous and not robust enough from a parental perspective.
- We are not clear of the legal status of the IDP.
- We are not clear whether children at school action / school action plus now require IDPs? Where will the resources come from to meet this need?
- We are concerned that the IDP is a one size fits all proposal.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We feel that the language in many parts of the Bill is ambiguous and open to interpretation.

The Bill itself lacks language that relates to aspiration and positive outcomes and focuses only on provision.

The Serennu Care Co-ordination Forum made a request for a parent voice on the Code Conduct Group and was denied a place. If there is no child or parent voice in the development of the Bill and the Code how can we have any confidence that the interests of children and young people with ALN will be protected and promoted?

We would strongly argue that parental participation at the early stages could save disputes in the future and are at a loss to understand why they have not been included and why they cannot be included in the code conduct group. We are concerned that this is based on a perception that parents cannot be trusted to put aside their own individual cases and represent the broader interests of all children with ALN

Equally importantly we cannot see the child / young person's voice at the heart of this draft Bill.

Therefore we strongly disagree that the draft Bill would meet this requirement.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We strongly disagree that the Bill provides a basis for increased collaboration.

Firstly the IDP does not represent the single plan that parents have repeatedly asked for.

Secondly there is ambiguity in relation to the health input into IDPs in respect of provision. Section 14 states that Health now has a duty to ‘secure the additional learning provision specified in an IDP under this section as provision it has agreed to secure’ and ‘nothing in this section requires a LHB or NHS Trust to provide anything that cannot be provided as part of the comprehensive health service in Wales

- Will there be a conflict of interest for health staff in making recommendations in relation to a broader group of children that they currently do not have the resources to make provision for?
- Will this create conflicts between need and provision? How can this be in children's best interests?
- Will health be responsible for the provision of equipment that it recommends for use in schools?
- Under the current system of statements, if therapy is written into Part 3, then the LEA have a legal obligation to provide it if the health board does not agree that it has a duty of care. Does this mean that under the new legislation there will never be a legal requirement on the LEA to provide therapy?
- Section 14 (7) states that ‘where the Educational Tribunal for Wales order the revision of an IPD in relation to ALP specified in a plan under this section as provision a LHB or NHS Trust has agreed to secure, a LHB or NHS Trust is not required to secure the revised ALP unless the Board or Trust agrees to? Does this mean a legal duty for the LEA to make provision for therapy?
- How can parents appeal against lack of therapy provision in school if the health board does not accept a duty of care and the LEA has no legal requirement to provide?
- Parents will not be able to seek second opinions in relation to therapy via private practitioners as there will be no legal basis on which to challenge lack of therapy.
- Will this create more pressure for teachers who are already over stretched if they have to deal with sensory / co-ordination / behaviour issues without therapy support?

Therefore our conclusion is that the Bill potentially creates a foundation for conflict rather than collaboration.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree		Disagree	X <input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The process as described in the draft Bill appears to be straightforward in respect of avoiding disagreements, earlier resolution and right of appeal.

However in respect of our response above to question 4 we are unclear as to how disputes over therapy / other health provision are to be resolved.

We are also concerned about the 3rd sector resource deficit in respect of adequately supporting parents through the new IDP, disagreement and resolution process.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Serennu care Co-ordination Forum has been invited to make a response to the Draft ALN Code which it will do in the New Year. We therefore have no comments to make at this point in time.

The documents mentioned above are lengthy in content and require considerable time and effort to read and understand.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We have several issues that we would like to raise?

- 1. The role of educational psychologists is not mentioned anywhere in the draft code – the new legislation must impact on their role and we would like to understand how?**

- 2. Will special schools extend their provision to young people aged 19-25?**
- 3. If schools are now responsible for developing most IDPs (apart from the most complex ones) how will the skill mix in schools be determined to ensure that it is not a lottery in terms of standards and equity?**
- 4. Will there be a demand on health to support schools with more training?**
- 5. There is danger that the quality of OIDPs will vary greatly from schools to school. Where will the quality assurance come from?**
- 6. Will existing statements be replaced by IPDs?**
- 7. Section 28 of the draft Bill 'General duties to secure post 16 education and training for person with ALN' is a list of definitions with no detail. What are these general duties? If the Bill caters for 0-25 ALN provision then it is not reasonable to have to read the 'Learning and Skills Act 2000' in order to understand post 16 provision.**
- 8. How is the aspiration of the draft Bill to be achieved with no additional funding?**
- 9. Will ALNCO roles be extended to cover the 19-25 age range?**
- 10. The Bill has an emphasis on mainstream education provision for the majority. What about children in special needs resource bases?**
- 11. Will there be a difference in status of IDPS developed at a local school level as opposed to LA developed IDPs?**

Please supply additional support for both agencies and parents during implementation.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Yvonne Evans

Organisation (if applicable): Brynmill Primary School

e-mail/telephone number:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input checked="" type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst agreeing in principle to the introduction of IDPs, I have great concern about the implications for ALNCos in the administration and co-ordination of them. It is hard enough, currently, to convene the Annual Statement Review meetings with outside agencies (other than education services) attending. In 20+ years as a SENCo, I have had only one meeting attended by a medical representative (other than SALT), despite many invites over the years.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Time and resources will need to be greatly increased to allow representatives the time to administer, co-ordinate and attend the meetings. Without that input, I do not believe there will be any improvement in the way agencies work together. With dire projected budgets for schools and other services, I cannot see this happening.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

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Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: KEITH BRELSTAFF

Organisation (if applicable): POWYS COUNTY COUNCIL ALN MANAGERS

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

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	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

ALN and ALP are useful terms if they are defined carefully and the areas of responsibility are clear especially with regard to the boundaries between FEI and LAs.

The age range is more complex in that it raises the questions as to who will be coordinating the IDP for those under 2. It is unlikely any educational professionals will be involved at that age and therefore will health be setting up IDPs when they are not educationalists, and the IDP is an educational document?

On the other hand, the preschool referral process may be seen as an educational responsibility and health may assume that ALN teams are able to pick up the coordination and the lead professional role. The incentive may be for other services to pass the responsibility to education.

Considerable concern is felt over the ability of the LA to monitor IDPs of those in FEIs where the colleges are incorporated bodies. They have the ability to decide on the range of curriculum / qualifications, and so determine the range and depth of their offer. Different funding mechanisms between FE and schools mean that there will be major problems in delivering the support specified in the IDP.

Huge concern expressed over the statutory responsibility of the LA for the IDPs of people from 0-25. Ultimately the challenge and responsibility for the AL processes will rest with the LA ALN team.

LAs will face increasing costs in terms of commissioning independent parental support and advocacy to a much wider and larger group of people.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The reference to the governing body in the bill and code should be clarified – i.e. it should be delegated responsibility to the head teacher. This will prevent governing bodies getting too involved with the personal detail of individual learners who have IDPs.

There is little clarity as to the ultimate responsibility for unadopted IDPs.

As health services do not have to be involved in an IDP, there is little parents or other agencies can do to ensure provision without education providing the funding.

Moves into the LA with an IDP is a further area of uncertainty. If one health board agreed to provide and had it in the IDP, but the new health board refuses, how do parents ensure continuity of provision and who is ultimately responsible for this?

The only ‘robustness’ seems to be that there is an assumption that the AL teams in LAs will pick up the cost for provision.

There will be ambiguity as to when support services get involved as the graduated response to need will be removed. There will be considerable and potentially unmanageable demand from parents and schools for IDPs, at what is now School Action.

LAs will have to design their own management tool which will reflect to some extent or be a local version of, the current code of practice. This will be potentially less than clear to parents.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

By giving the protection that statements afford to the 20% of learners with current SEN, there is the danger that those with statements will be devalued. If adopted IDPs service the same function as Statements, then the change is not fundamental and suggests a reform to the existing system rather than an attempt at a radical change.

The standards agenda in schools is working directly against inclusion. This is now reinforced with the budget cuts in schools. There is an increased demand for alternative specialist placements and exclusions are rising. The aims of the legislation will not be delivered while these impact on schools. The latter is beyond Welsh Government , but the former is not.

Schools with specialist resource centres are not seen by WG as ‘Green’. These standards need to reflect the inclusive challenges being delivered to by these and other inclusive schools.

The current lack of knowledge regarding differentiation in mainstream classes, and how to moderate at level 1 and below (no government guide yet on below level 1 assessment),

compromises inclusion, and will limit and even thwart the aims of the Bill.

It is common understanding that schools across the UK are concocting assessment results in order to protect themselves and not responding to the value of those who are learning at a different rate and level.

The legislation talks of mainstream as the place where those with ALN should be educated. This is not being reflected in reality, as increasingly schools want the children out of mainstream and this message becomes clear to parents who then request specialist provision.

LAs are increasingly shocked by the refusal of schools to take children unless there is further funding given by the LA. (These conversations are often said with parents present). The rights of children will not be protected by the new arrangements

There needs to be a review of accreditation arrangements other than GCSEs that give value to those with learning difficulties such as ASDAN. This is necessary in order to incentivise schools to be inclusive.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There is no equality in the legislation. This is reflected in the need to make the education teams ultimately responsible. Health and social care **will not** commit to services in an IDP where they work to a resource led not a needs led budget. Their priorities are and will remain, different.

There was a considerable amount of work at significant cost, over many years to try out the ways services can work together. There is little evidence that these projects have been taken account of.

At present health services are loathed to get involved with SEN tribunals in support of LAs. This will not change. In fact any parent who does not like the IDP may appeal to SEN tribunal, complain to the Health board and then again to the social services. Having 3 different bodies will not deliver confidence to parents.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The whole premise of the legislation is to reduce the 'fight' experienced by parents. The bill is in direct opposition to this firstly by calling it a tribunal bill which stresses the 'fight'. Secondly to introduce a new right of appeal at the decision as to whether a child or young person has ALN. Schools will not want to fall out with parents at this stage and so this will increase the number of those with IDPs and include many who do not have ALN.

An important consideration for School Improvement and SEN is that as per the Ofsted review in 2008 a considerable percentage of those with SEN are wrongly given that status when in fact it is poor teaching. We need to move away from fixing the child and towards improving the educational experience and engaging learners.

There are costs of providing disagreement resolution and face to face meetings. Costs of commissioning these services and meetings with parents will present LAs with major difficulties. If there are expectations that these same services are involved in the massive increase in the statutory IDPs, it will not be possible.

Schools need to be aware that they will be responsible for solving issues. The LA will not have the resources to work closely with schools as the bureaucracy in LAs will necessarily increase.

This legislation does not encourage schools to be inclusive. It attempts to link with other agencies for disabled people rather than include and integrate with the aims of the range of educational initiatives and services that impact on schools

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The memorandum talks of the 'less adversarial' system but the legislation will not deliver.

The code is less than helpful as it seems pointless to publish a code when it is recognised as being nowhere near ready.

A second version of the Code should come out for consultation

The pilot reports from years ago have not been used by the civil service delivering this legislation. This is a considerable waste of public money and could be seen as insulting to those LAs involved in delivering the pilots.

A fundamental flaw has been not to align the funding of schools with Further Education colleges (as was done in England). There the LA has a role in auditing the spend on ALN in colleges and the common language between colleges and schools helps in a common understanding and ensures the draw down for funding is the same between schools and colleges and so ensures the IDP can be delivered.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Capacity of the local authority to deliver will be compromised.

Substantial increase in bureaucracy to manage IDPs and danger of not concentrating on the needs of those with the most severe and complex of needs.

Workforce development is critical and the need for SENCo training to be clarified and costed across all settings. Also graduated training for TAs and critically important to ensure that classroom teachers are given the tools to be inclusive (teacher training)

Lack of clarity in terms of who leads IDPs in early years settings.

Because the funding in Wales has not been coordinated as in England across FEIs, a college may not be able to fund an IDP as they cannot draw down the funding (eg dyslexia support is possible in schools without a formal diagnosis from an EP or AMDA qualified specialist, whereas FEIs currently need this. It is a problem now and will be made worse by the statutory demand that it is provision.

Naming a school in an IDP – what is required and assuming the LA still names in the same way as present

The distinction between a school IDP and LA adopted IDP is the same as the statement/non statemented division. It will be little different to now except that the IDP will be written in half the time and therefore is in danger of being less thorough

This bill (Act) will be judged by the experience of parents. Their expectations will be raised through this process and the evidence suggests that their hopes will not be realised. The reduction in budgets across schools, colleges and LAs will limit what can be achieved. Parents will still have to ‘fight’ for the IDP that will deliver the

provision they want for their children (ie an adopted IDP) and the LA will still rely on evidence of need of what the school has done in order to make that decision.

An Act aimed at reducing the ‘fight’ does not introduce more opportunities to be in dispute and more agencies to be in dispute with.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: (Service response)

Organisation (if applicable): Bridgend Educational Psychology Service

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The term Additional Learning Needs is to be welcomed. However, the definition requires absolute clarity. It will be used for establishing boundaries and will, inevitably, be argued over at all levels including through the courts. A clear definition of ALN makes this more likely to occur. Any definitions used should allow for proper determination of levels of need. The current proposed term spans the full range of need from those requiring a low level educational assessment and intervention to children and young people with the most severe and complex needs requiring comprehensive multi-disciplinary assessment and highly specialised special school placement.

The extension of the age range from 0-25 reflects the focus on educational needs providing the necessary resources are put in place in order to effectively meet the needs of all CYP with ALN. However, this has massive implications for LA resourcing. Local authorities do not have the capacity or resources to manage the implied responsibilities for this greatly increased cohort of young people. In particular, there are significant resource implications for local authority Educational Psychology Services (EPS) which play such a central role in these processes. In England, the statutory reforms have resulted in significantly increased demand for EPS and this is likely to be the case in Wales also.

The essential role of Educational Psychologists in all complex cases referred to the LA *must be recognised* on the face of the Bill and in the Code of Practice to ensure that children and young people in Wales have the same rights of access to an EP as those in England. It is also important to note that the processes and systems in Wales differ significantly from that in England and this may result in cross border issues.

The Code of Practice should state that schools should consult with an Educational Psychologist *before* any case is referred to a LA. In addition the wider role of the EP in supporting school staff at all levels including FEIs needs to be explicitly recognised in the Code of Practice.

In principle, introducing a common format to extend from school to post 16 makes sense. However, this does depend on how, crucially, responsibility and governance work. The local authority's responsibility is a key issue here and it is our strong view that it is both unreasonable and unworkable to extend the local authority's statutory responsibilities into areas for which they hold no overall responsibility for governance or funding.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The essential role of Educational Psychologists in all complex cases referred to the LA must be recognised in a mandatory way both in the Bill and in the Code of Practice to ensure that children and young people in Wales have the same rights of access to an EP as those in England.

The Code of Practice should state that schools should *consult* with an Educational Psychologist before any case is referred to a LA. In addition the wider role of the EP in supporting school staff at all levels including FEI needs to be explicitly recognised in the Code of Practice.

What is unclear is what is meant by ‘maintaining’ the plan when the IDP is held by the LA. The processes are not specified and it is difficult to see how the IDP can be a working / flexible document when held by the LA. How does the LA ‘secure’ provision in those cases when it holds the IDP particularly with regard to FEIs and independent schools when it has no control over them?

Person centred planning meetings demonstrate good practice and must be resourced appropriately in order to ensure the effective formulation of IDPs. Implementing PCP may be time consuming and in when putting it into practice there is a lack of any clear framework or specific processes to support the implementation of IDPs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The role of the ALNCO will be key. However there will be a need for the training of

the school and FEI workforce to be sufficiently skilled in meeting the needs of CYP who have ALN. The role of the EP will be crucial in providing training and on-going support and advice and support training.

We agree with NAPEP Wales response that children with severe and complex additional learning needs will continue to require a full multi-disciplinary assessment and planning process. However, children and young people with mild to moderate additional learning needs, who do not require a full multi-disciplinary assessment and planning process, will still require proper identification, assessment and planning processes matched to their level of need. Many of these young people may benefit from more specific or tailored educational plans rather than full IDP formats, rather in the way that the current IEP allows for the construction of targeted, specific educational interventions. As we have argued above, educational psychology services are one of the central resources available to schools at school action plus to support this work at the school/IEP level as well as at the statutory level on behalf of the local authority.

To ensure that the needs of all children and young people with ALN are met there needs to be a clear process, identification of roles and responsibilities and greater clarity about how to identify needs through assessment in order to determine the ALP. To achieve improved outcomes there is a need for more clarity in the whole process of preparing, maintaining and reviewing IDPs

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There are concerns about collaboration with Health in relation to the delivery of speech and language and other medical and therapeutic services. There is no statutory requirement for Health to assesses or attend reviews or adhere to timeframes or to provide services other than those which they have already promised to deliver. This could result in greater conflict between Health and Education over resources.

There is likely to be greater challenge between children and young people, parents, schools or other educational institutions, and local authorities over who should have responsibility for assessing ALN and preparing and maintaining an IDP. Also who should secure the provision and how Health care plans and IDPs link together. The Educational Tribunal has no jurisdiction over Health to ensure that they provide the ALP they agree to. The introduction of a DMO / DCO in Health welcomed and will

help with the coordination of services. It is noted that there is no named LA officer in the Bill for coordination of LA services.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Draft Bill does not support any reduction in potential disagreements or promoting earlier disagreement resolution as there is a lack of clarity about structure and process in the draft Bill. It is likely to increase dissatisfaction and conflict.

Educational Psychology Services currently play a central role in tribunal hearings, both as representatives and witnesses. This would still be the case but is not recognised in the Bill. The educational psychologist has the skills, knowledge and understanding of ALN and takes a holistic overview of a child or young person's ALN. The role of the educational psychologist will expand to cover post 16 which has implications on workforce capacity.

There is a lack of clarity around case friends and advocates and the necessary skills required for this role, which is a concern given the potential for disagreement. Educational psychologists traditionally play an important role in mediating and helping resolve disputes at the early stages because of their skills set, including having a comprehensive understanding of education, educational systems and wider systems and the psychology of child development.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Very little is mentioned about Educational Psychologists in the Bill and Code. EPs

have a statutory role in assessing those children who are undergoing statutory assessment. Therefore, EPs are involved in the identification, assessment and support of children with ALN. However, not just at a statutory level for statemented children and young people, EPs play a crucial role at all levels of need including early identification and early intervention. The Draft Bill and Draft Code of Practice do not properly incorporate the conception of a graduated response and highly specified approaches to identification and assessment. It is essential that EPs are written into the Bill and Code otherwise Welsh children and young people with complex needs will be disadvantaged in comparison to their English counterparts.

There will be an increased workload if EPs are required to become involved in supporting FEIs as currently they commission independent / private EPs. The LA will maintain the IDP for young people with complex needs attending FEI and this will increase the work of the EP.

There is also an important role for EPs in providing CPD and support for school staff and particularly for ALNCOs and the impact of the new legislation on the EP services has not been given full consideration. Furthermore, the impact of the ALN Bill on the LA in terms of workload and finance has not been recognised.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

There needs to be more specificity in the Bill and Code on identification, assessment of ALN and identification of ALP to meet the needs of children and young people.

When the needs of children and young people are severe and complex the key LA advisory service is the EPS. This is recognised by parents, schools and LA officers, and external agencies (including Health) that EP advice is crucial to the formulation of the holistic needs of the young person. Comprehensive assessments are necessary to identify ALN to correctly specify the ALP required for the best outcomes. The EP needs to be written into the Bill in a mandatory way, particularly when the schools refer to the LA if the needs are more severe and complex.

The core advice when formulating an IDP should include the parents and child, school or specialist contribution, Educational Psychologist, Health including speech and language and OT etc, and social services as appropriate.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name:
Gareth Payne, Principal Educational Psychologist

Organisation (if applicable):
**Special Educational Needs Joint Committee
(Gwynedd and Anglesey)**

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	X <input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	X <input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>
	It is disappointing that there is not a separate category for Educational Psychologists	

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree with much of the content of the Draft Additional Learning Needs and Educational Tribunal (Wales) Bill.

We agree with the new terminology, and feel that it reflects the situation better than the current '*Special Educational Needs*'.

We also wholeheartedly agree in principle with the intentions of this Bill, and, specifically, the way it:

- Introduces more involvement from the children and young people themselves,
- Extends the system to young people up to the age of 25,
- Ensures the same process is used for everyone, at every level of ALN, and for all ages,
- Gives the right of appeal to children and young people as well as their parents, and
- Emphasises the use of the dynamic meetings-based approach where decisions are made by a group of professionals and others acting together in the best interests of the child or young person,
- Promotes the use of Person-Centred Planning techniques.

However, we cannot agree that the '*definitions of ALN and ALP set out in the draft Bill appropriately reflect the intended focus on educational needs*'.

The definitions given of ALN and ALP are disappointing and both merely repeat the original fudged definitions from earlier legislation.

'A person has Additional Learning Needs if he or she has a learning difficulty or disability which calls for Additional Learning Provision' and 'a significantly greater difficulty in learning than the majority of others of the same age'.

'Additional Learning Provision means... provision that is additional to, or different from, that made generally for others of the same age'.

Clearly these are not precise definitions and will vary across Authorities and across the country according to what is considered to be additional within the local context.

Also, we cannot agree that the draft Bill would deal properly with the age range it sets out to.

This Bill, and the Draft Code which accompanies it, puts the responsibility of determining a child's (or young person's) ALN and ALP, and preparing and maintaining his IDP, on the school.

However, if the needs are such that '*the matter is beyond its* (the school's governing body) *capability*' or that they '*call for additional learning provision it would not be reasonable for the governing body to secure*' then the matter will be referred to the Local Authority.

We believe that, in the absence of specific criteria as to what level of Additional Provision is considered to be beyond a school's capability, and not reasonable for the governing body to secure, this vague terminology will lead to a situation where:

1. The Local Authorities will need to produce their own, local criteria, and these will therefore vary widely across the country.
2. In a time of constraints on school budgets, the tendency will be to refer a larger proportion of children and young people with ADY to the attention of the Authority than was the intention, and a greater proportion than would be expected within the spirit of the Bill.
3. This will lead to less emphasis upon developing good ADP in the mainstream schools, and
4. The local Authorities will be unable to deal effectively with the volume of cases for which they are expected to determine ALN and ALP and prepare and maintain IDPs.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Again, as explained above, the framework proposed would not be effective in the preparation, maintenance and review of Individual Development Plans, because we believe it would lead to inconsistency across the country, as Local Authorities devise and follow their own separate criteria, and it would be difficult for the Tribunal to make decisions on individual cases in the light of this difference.

Also, this new system as described in the Draft Bill and the accompanying Draft Code does not follow the step-by-step graduated response of the current system, where provision is made at the local level, and only increases in the light of evidence that provision at a given level is insufficient. Instead it proposes that it might be decided at the outset, in many cases at least, whether an individual's IDP should be prepared and maintained by the school/college or by the Local Authority.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

For the reasons outlined above, we believe there is a danger that the system as it is described, without clear criteria set out by the Government and consistent across the country, will lead to the situation where too many children and young people will not receive appropriate provision within the mainstream school, despite the stated intent that the Local Authority should 'favour' educating children in the mainstream.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The description of the involvement of the Health Board is disappointingly weak.

They will only be required to make a provision if they themselves have originally agreed to do this.

Current experience suggests that it is very difficult to ensure regular support e.g. in Speech and Language Therapy, and there would appear to be little rigour in the Draft Bill or Draft Code to improve this situation.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We welcome the proposal that Local Authorities are to make arrangements both to avoid and to resolve disagreements, and we are sure that it can be an appropriate framework for this, if there are clear definitions and criteria as to what ALP might be reasonably accommodated within the resources of the mainstream school or college.

However, as it stands, without these clear criteria, we believe this proposed system will lead to a great deal of disagreement with parents, young people and children.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Draft Code is the document that, it is to be hoped, can supply the rigour lacking in the Draft Act.

The present Draft Code document is disappointing in that it is not more rigorous or prescriptive than the Draft Act itself, and seems to merely rephrase the words of the Act in a different order, whereas the current Code of Practice does set out in clear terms the procedures a school should follow.

Hopefully, new versions of the Code will improve upon this, and introduce clear National Criteria as to what level of ALN and ALP it would be reasonable to accommodate out of the resources of the mainstream school, and therefore at what point it would be appropriate for the Local Authority to prepare and maintain an IDP, rather than the school or college itself.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Although we find some things in the Draft Bill disappointing, we do agree with much of its content, in particular the emphasis upon the IDP meeting, where professionals from education and elsewhere, and the family and others, as well as the child or young person him or herself, meet to prepare the IDP.

This would be excellent practice, especially if those present will have the authority to make decisions regarding the level of provision, as it is proposed.

It may, however, prove difficult to implement this in practice.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Peter Jones

Organisation (if applicable): Guide Dogs Cymru/Blind Children UK Cymru

e-mail/telephone

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	X
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Blind Children UK Cymru became part of the Guide Dog family in 2013. Blind Children UK Cymru supports children and young people (CYP) who are blind and partially sighted and their families, by offering habilitation training and support

services. Training and support in mobility, orientation and independence skills are currently delivered via the “Movement Matters” programme.

The Movement Matters service provides training to help blind children and young people in Wales move around safely and independently. Movement Matters also teaches important life skills such as handling money and preparing food. For children with complex and additional needs, Movement Matters can provide a tailored programme including body awareness, wheelchair mobility, use of remaining vision and more. Education cannot progress unless life and social skills are developed holistically.

Sighted children learn by watching others; children with vision impairment often need to be specifically taught skills and concepts they would not otherwise pick up. Movement Matters provides personalised training and support in mobility, orientation and independence skills from babyhood to adulthood. These are the skills that will help a blind child to do things like reach for a toy, make a snack, and develop their listening skills.

Movement Matters training unlocks possibilities – helping children and their families to understand that sight loss does not have to be a barrier to reaching their potential.

The Movement Matters’ services include:

- assessments to establish a child’s or young person’s needs
- mobility and independence skills training
- advice and support workshops for parents and carers
- practical work with friends, family and professionals to support children and young people with vision impairment.

These vital services are delivered by our qualified Children’s Habilitation Specialists, who work shoulder-to-shoulder with other professionals for example: Speech and Language Therapists, Physiotherapists and Occupational Therapists and other organisations including local authorities.

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The proposed definition of ALN, and related ALP, in Section 2 offer little more than an update of the current definitions of Special Educational Needs (SEN) and Special Educational Provision (SEP). Whilst we accept that this brings about an end to the separate category of Learning Difficulties and Disabilities (LDD), which operates for post-compulsory school age young people, it does little else to reform the status quo. We support replacing the term SEN with ALN because the term ‘learning’ has the potential to acknowledge that children and young people learn beyond the boundaries of ‘education’ in its more formal and statutory sense. However, as currently drafted, the bill replicates the current SEN framework’s narrow constraints within the formal education setting, missing out on the opportunity to be truly transformative.

This has particular implications for children and young people who are not of compulsory school age and who may not be accessing learning at nursery, school or Further Education (FE) settings.

ALN for children under compulsory school age is defined in 2(3) in relation to the expected barrier that the child will face when they are of compulsory school age. We strongly advocate that children 0-3 with a VI face barriers to learning in their own right. Children born with VI are disabled from learning opportunities many take for granted and this disabling effect will be present from birth. These children must not be required to demonstrate that they are ‘likely’ to have ALN at compulsory school age to justify their ALN at age 0-3.

We welcome 3(2) that states that ALP for a child under compulsory school age ‘means education of any kind’. However, we are disappointed and concerned that 68(1) determines that ‘educational’ is to be interpreted as ““education” (“addysg”) [which] includes full-time and part-time education”. This again collapses the potential transformative use of the term ‘learning’ into the restrictive sense of education because it suggests that this learning will be in the school setting, which cannot be appropriate for children 0-3.

We also have concerns about older young people. Evidence shows that if young people with vision impairment, with and without additional disabilities, are to be equipped with the skills required to succeed in post-school settings, a greater emphasis is required during schooling on developing their independent learning and habilitation. Information and guidance should be provided to young people while at school, and to their parents, about the options available, including Access to Work. Young people with additional needs making the transition from residential settings should also have the support of a dedicated transition worker. We would wish to see greater detail about arrangements for supporting young people through transition contained within the Code of Practice.

We are keen to see that there is joining up of the journey from school to employment, and for those with visual impairment and complex needs, that there is a pathway into a future that promotes independence and gainful activity. To achieve this, support systems, such as the family support provided by Blind Children UK Cymru, need to be put in place to prevent young people becoming socially isolated and not in education, employment or training (NEET) when they leave education.

We deliver a range of services, comprising practical and emotional support, information and advice on a range of issues including education and access

technology, mobility and life skills training, access to grants for technology and equipment, recreational activities and the production of large print books. At the moment the draft Code of Practice is weak on how these wider wrap-around services will be delivered to children with visual impairment eg how will a child with visual impairment be supported in a cookery lesson? The Code only makes fleeting reference to sensory impairment on 4 occasions and this is not sufficient. It is vital that guidance around the new IDP makes it clear that the wider habilitation needs of the children and young people are always addressed and most importantly sets out **who is going to deliver what by when**.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Children and young people with VI will always require an IDP to set out the ALP they require to access learning. This must be explicitly noted in the Code of Practice. We strongly urge that local authorities are always responsible for preparing and maintaining the IDP of children and young people with VI. The very low-incidence nature of sensory impairment and the relatively high level of ALP a child or young person will require to access learning means that it cannot be reasonably expected of nurseries, schools and FEIs to provide this in-house. Moreover, children and young people with VI will require input from a suitably qualified specialist teacher of the visually impaired and children's habilitation specialist. These are likely to be employed by the local authority education inclusion team or specialist third sector organisations.

We support the move from Statements, School Action and School Action plus to the IDP providing that the IDP does not represent a backwards step in comparison with the Statement. As a statutory document the IDP must outline the child or young person's legal rights and entitlements to specialist support. At present the bill only requires a description of the child or young person's ALN and a description of their ALP (Section 8). The Code of Practice goes somewhat further in fleshing this out but we are concerned that the current guidance will result in insufficiently robust plans that do not appropriately outline a child or young person's key ongoing support needs, such as the provision of a habilitation specialist or the maintenance of equipment to support vision. This could helpfully be set out in sections on 'Adaptations', 'Equipment', 'Access support'.

We call for a template IDP to support the consistent delivery of ALP across learning establishments and local authorities and facilitate the portability of the IDP. This will have the added benefit of supporting children, young people and their families to be

clearer about their rights and entitlement to support. Several versions of the template could be produced to ensure that it is both age and ability appropriate for the child or young person in question.

IDPs must be fully accessible to children and young people with sensory impairments. This means that diagrams, tables, pictures or flow charts may not be suitable for inclusion. Neither should the production of accessible format IDPs be limited to EasyRead versions, which often heavily rely on the use of pictures and images.

ALNCo

We support the intention in the draft bill to require all maintained nurseries, schools and FEIs to appoint an ALNCo and for regulations to make provisions about the necessary qualifications and experience needed by the ALNCo (Section 16(3)). ALNCos must receive specific disability and ALN awareness training that includes awareness of sensory impairment. Too often a child or young person's sensory impairment is overlooked as a secondary or additional need in comparison with what is considered their primary or major need. ALNCos must be supported to ensure that they are aware of all sensory needs and can coordinate provision to meet these needs appropriately.

The roles and responsibilities of the ALNCo at point 45 of the Code of Practice are vast and expansive. Whilst it is right and proper to be ambitious for the role and to set high expectations, we are concerned that the ALNCo role will be excessive and burdensome. The pressure of making the new ALN framework work should not be shouldered entirely by the ALNCo; local authorities must not be allowed to offload their responsibilities on nurseries, schools and FEIs through this role.

As the ALNCo is establishment-based, we are concerned about the impact a lack of ALNCo, or similar role, will have on children in the early years 0-3 or post-compulsory schools age 16-25.

16-25

We are disappointed that the draft bill does not extend the ALN framework to accommodate young people who choose to pursue learning outside of the school or college setting, such as through apprenticeships, work-based learning and volunteering opportunities that build life skills and employment prospects. All young people 16-25 should have access to the same support that they could expect in a school setting.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We are not convinced that the interests of children and young people with a visual impairment are adequately protected and promoted. In particular he 114 page Draft Code of practice has only 4 references to sensory loss and vision impairment on

pages 33, 36, 69 and 78.

To Improve things it would be helpful if children's habilitation specialist was added to the list in paragraph 125; in paragraph 196 it would be worth adding after "complex" "eg sensory loss"; in paragraph 287 a new final sentence could be added "similar details should be included when a children's habilitation specialist is engaged".

It is very important for children and young people with a visual impairment that habilitation is properly referenced in the Draft Code. This would then be consistent with The Social Services Code of Practice referenced in our response to question 4.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Children and young people with VI who require support to access learning opportunities are likely also to require similar support to access social activities. Moreover, children and young people with VI may often have a range of disabilities and health needs. This can mean input from several specialist services across health, social care, education and the third sector at any given time. Habilitation training teaches a child or young person with sight and/or hearing loss the crucial movement and living skills they need to achieve independence in their daily lives – from catching the bus to making their own tea or safely crossing a road. As habilitation spans across a child or young person's learning, social and independence skills, it often does not fit clearly within any single agency's responsibilities. Agencies will need to work together to ensure that a child or young person receives the appropriate habilitation training without delay; this will involve effective collaboration and clarity about what is being funded and by which agency. We are disappointed that the Draft Code makes no reference to habilitation whatsoever. This is at odds with paragraphs 185/186 of the recently published Welsh Government Code of Practice and guidance on the exercise of social services functions and partnership arrangements in relation to part 2 (General Functions) of the Social Services and Well-being (Wales) Act 2014. We would respectfully suggest that the requirements of this Social Services Code should be explicitly cross-referenced in the Draft Code.

The draft Explanatory Memorandum lists amongst the purpose and intended effect of the legislation:

Increased collaboration: The new system should support a strong focus on collaboration. All services involved in working with children, young people and their families, including education, health and social services, will have a crucial role to play in working together to deliver efficient, effective, child-centred support for learners with ALN. (3.11)

We welcome this aim. It is therefore with disappointment that we read further in the Explanatory Memorandum that bodies other than the local authority will have functions under the act but

Most of these functions will be the same or similar to functions exercised by these bodies under existing legislation. (3.43)

This is a missed opportunity to legislate for greater joint working between agencies for the benefit of the child or young person.

Whilst we welcome Section 16 that enables the local authority to prepare the IDP at the same time as any other plan the child or young person may have, which will reduce the burden on children, young people and parents to attend multiple meetings, this will still result in multiple statutory plans for the child, young person or parent to oversee. We believe that this is a missed opportunity to truly integrate provision for children and young people in a holistic way. To be truly person-centred the IDP must include sections on a child or young person's social and health needs in relation to their learning. We know from recent research we have undertaken that there is often a disconnect between support provided by education and social services and support stops at the school gate. There is an opportunity to improve things here by including in the IDP sections on social and health needs.

The draft bill and Code of Practice must also recognise that effective multi-agency working goes beyond the mere ability to share information between agencies efficiently.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The current system can be perceived as too adversarial and we suggest that advice and support for families must be independent and at arms-length from the local authority.

To support this further work is needed within the bill to clarify that avoidance and resolution of disagreements services are indeed independently provided. 37(3) and 38(3) suggest that the local authority may be an appropriate source for avoidance and resolution of disagreements or advocacy when the disagreement in question is

between the child, young person or family and the school or maintained nursery rather than directly with the local authority. The Welsh Government must recognise that parents may not perceive the school or nursery to be independent from the local authority and will expect to receive support that is appropriately distanced from the local authority, such as within in the third sector.

Independent advocacy – the enabling of a voice to be heard – should be an option available to all children and young people with ALN who may benefit from this and must be available throughout all processes and stages of the ALN framework. However, as currently drafted, the bill restricts the provision of an independent advocate to children and young people:

- a) Making, or intending to make an appeal to the Education Tribunal for Wales under this Act,
- b) Considering whether to appeal to the Tribunal, or
- c) Taking part in or intending to take part in arrangements made under section 37 [avoidance and resolution of disagreements] (38)

We believe that the right to an advocate should be an entitlement of all children and young people who are referred for assessment for ALN at the outset of their journey through the system.

Disagreement resolution should be able to run concurrently with appeal to the Education Tribunal for Wales. This will ensure that children and young people who are appealing at local authority level about decisions made by Governing bodies will experience delay in accessing the services of the Tribunal in comparison with their peers in FEIs, who can go directly to the Tribunal, bypassing the local authority level (see Section 40).

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We have taken account of all the supporting documents in compiling this response.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We are concerned that the bill does not adequately cover the interface with health.

We do welcome the bill's introduction of the Designated Medical Officer/Designated Clinical Officer as the single point of contact leading on Local Health Boards' (LHB) contribution to ALN, as set out at Section 47. However, we are disappointed that this bill does not place sufficient duties on LHBs to contribute to meeting a child or young person's ALP. 14(1) states:

If a Local Health Board or NHS trust in Wales agrees, an individual development plan maintained by a governing body or a local authority for a child or young person may specify that additional learning provision described in the plan is to be secured by that Local Health Board or NHS trust for the child or young person.

For a duty to provide ALP to apply to the LHB or NHS Trust, that LHB or NHS Trust must first agree to provide this. This makes it all too easy for LHBs and NHS Trusts to avoid committing to being partners in meeting a child or young person's ALN. In real terms this could mean an LHB refusing to agree to fund and provide habilitation services for a very young child who may then go without, or face a significant delay in receiving, the crucial communication development required to meet their ALN.

48(4) states that the LHB 'may bring it [a child or young person's ALN or suspected ALN] to the attention of the appropriate local authority if the health body is satisfied that doing so would be in the best interests of the child.' We would urge that the Code of Practice makes clear that, other than in exceptional circumstances, it will always be in the best interests of the child or young person for the local authority to be made aware of their ALN. This is particularly true for children aged 0-3 with visual impairment, where early identification leading to early intervention and support is crucial.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Ruth Thomas / Louise Keevil

Organisation (if applicable): Derwen College

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other ISC	X

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that this wider definition better reflects the range of children and young people whose needs are being addressed in these proposals.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst we do agree with the statement we would urge you to consider one template for the IDP rather than local authorities creating their own.

In England the creation of different styles and starting points make the EHCPs (IDPs) complicated and lengthy. Added to this outcomes are often not educational, not measurable and to generalised. IDPs of 67 pages cannot be useful.

Having one style of plan would also reduce bureaucracy and encourage effective collaboration. Training and support on writing learning outcomes has started in England because English authorities have realised that they have a lack of expertise. This has been a complex situation.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst we do agree we wish to highlight the degree of expertise required to protect and promote post 16 high needs educations.

With the loss of Connexions in England it seems that implementation has been planned and delivered by pre-16 and in many cases early year's people who do not have the adult insight and knowledge.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

This really needs to be about the aspirations and meeting the needs of young people. Value for money is important however we would encourage authorities to ensure they are looking holistically at this with education, social care and health talking and working together to plan long term outcomes rather than to protect their individual short term budgets.

Perverse incentives around cost-led commissioning rather than needs-led commissioning could be an issue unless all parties clearly understand the wider picture.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Code needs to include how it will hold those with duties to account. How will this be monitored, managed and sanctioned?

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We would like to see the funding for the very small number of high needs students be ring fenced within authorities.

We would like to express our interest in being involved in the task and finish group working on the Code and any other groups that impact on these reforms.

We also agree that ISCs should be registered with the Welsh Government.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Rev Dr Philip Manghan

Organisation: Catholic Education Service

e-mail/telephone number:

The Catholic Education Service ("CES") is the education agency of the Catholic Bishops Conference of England and Wales ("Bishops' Conference"). The Bishops' Conference is the permanent assembly of all the Catholic Bishops throughout the two countries and the CES, as the education agency of the Bishops' Conference, is charged with promoting and securing education on behalf of the Bishops throughout those two countries.

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch

Support for Learners Division

Department for Education and Skills

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	✓
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Catholic Education Service welcomes the definitions of Additional Learning Needs (ALN) and Additional Learning Provision (ALP) as set out in the draft Bill. We also welcome the extension of the age range to 25 from 19 and believe the draft Bill captures the age range appropriately.

The current confusion surrounding the terms Special Educational Needs (SEN) and Additional Learning Needs (ALN) should now be clarified with the new definitions.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We welcome the introduction of Individual Development Plans (IDPs), which should simplify the current system. However, we are concerned about the potential workload increase for schools. If all children who currently have a SEN or ALN are included in the identification, alongside any other child whose ‘special educational need’ may be at a relatively low level, for an IDP, potentially there is greatly increased bureaucracy for the school, LA officers and others. If this cannot be avoided, funding would have to be found to service the increased workload.

We are also mindful that the current proposals provide a one-stage identification platform, unlike the current ‘ladder’ of ‘school action’, ‘school action plus’ and ‘statement’. The final proposals would need to make very clear at what point an Individual Development Plan should be initiated in order to alleviate some of the potential bureaucratic pressures. If a much wider group of children are to benefit from Individual Development Plans there needs to be a recognition that the implementation will need increased resourcing.

The wishes of parents to have their children educated in accordance with their own religious and philosophical convictions should be robustly built in to the framework for the preparation, maintenance and review of the IDPs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill clearly aims to ensure that the interests of children and young people with additional learning needs are being met. The Catholic Education Service welcomes the emphasis on high aspirations and improved outcomes, not least because it concurs with the fundamental principle of Catholic education that every child is a child of God.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

We agree that agencies working together will provide the best service for children, young people and their families and there are many excellent examples of inter-agency work already happening in Wales. Our concern is that the inclusion of a much greater range of people for Individual Development Plans and attendant services, not least because the age range will increase to 25, also requires an increase in funding and services to match the aspirations of the draft Bill. If additional resources are not provided there is a danger that schools and other service providers will not be able to manage the attendant increased workload.

In terms of Further Education Colleges, and specifically for us St David's Catholic 6th Form College, we note the requirement for colleges to use their 'best endeavours' to meet the needs of young people with additional learning needs. However, there needs to be clarity about where the responsibility lies for best meeting the needs of identified learners and how it will be funded.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Catholic Education Service welcomes the draft Bill's encouragement to resolve problems at an early stage of difficulty, which should avoid immediate and unnecessary recourse to tribunals.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Catholic Education Service welcomes the plan for a revised Code of Practice to ensure consistency across Wales and in particular the suggestions to:

- raise the status of additional learning needs co-ordinators (ALNCos) in schools, which will benefit children and young people with ALN
- Introduce a qualification for ALNCos, which will help raise the profile of the work
- place ALNCos on school management teams
- ensure schools have a place for ALN pupils in their school improvement plans to encourage high quality inclusion and appropriate differentiation and intervention.

Such steps would be encouraged by the Catholic Education Service to help schools and the 6th Form College provide the best possible learning and outcomes for all children and young people in their care.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain

anonymous, please tick here:

Consultation response form

Your name:

Kirsten Jones – Vice Principal Education & Training for and on behalf of Coleg Elidyr

Organisation (if applicable): Coleg Elidyr

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

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Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	X
	Preschool organisations	<input type="checkbox"/>
	Education professionals	X
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	X
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In response to the first part of question 1 we concur that the definitions of ALN and ALP set out in the draft Bill appropriately reflect your intended focus on educational needs. In response to the second question around adequately dealing with the age range, the move to more stream lined planning is broadly welcomed. In terms of the Bill properly dealing with the age range it sets out to capture, there is little recognition of and reference to processes for pre-school children identified as or possibly having additional learning needs. At such a critical time for multi-agency collaboration and appropriate professional assessments to identify the needs of individuals, it is suggested that the final Bill would be strengthened by more explicit reference to the needs of pre-school children and their families.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In principle, the move to a unified planning process with increased participation by children and young people is welcomed. In practice, clarity is required on the thresholds of responsibilities within multi-agency collaborative working. As an Independent Specialist College working with Local Authorities across Wales we seek further reassurance that quality assurance mechanisms will be in place to monitor:

- consistency in the structure of IDPs across Local Authorities and disparities in content quality within and across Welsh Local Authorities;

- the efficacy of IDPs in ensuring parents and young people are supported to make informed decisions on education options;
- that rigorous, impartial assessments have been made and reports made available to all stakeholders;
- that ALNCOs are supported to ensure they have requisite knowledge, experience and seniority to inform decision making;

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Again, in principle, we agree that the Bill certainly has the capacity to ensure that the needs of children and young people with ALN would be protected and promoted but have concerns that without a robust operational infrastructure, choice and control for young people with multiple and complex learning difficulties and disabilities and their families could be limited.

Without ring fenced funding to ensure the needs of Welsh young people with multiple and complex learning difficulties and disabilities are met within Independent Specialist Colleges, Local Authorities will be inevitably compromised to make finance driven decisions rather than those driven to promote and protect the best interests of such disabled young people.

As such, the college seeks confirmation that the rigour and measures by which Independent Specialist Colleges are inspected by Estyn will be mirrored when assessing the quality of provision in departments for people with multiple and complex learning difficulties and disabilities within ‘local’ Further Education Colleges and that a like for like rigorous inspection of the ALN profile in all establishments be made.

Without ring fenced funding to ensure that fit for purpose placements for young people with multiple and complex learning difficulties and disabilities are secured in Specialist Colleges, the potential ramifications for Local Authorities cover a breadth of challenges likely to include, safeguarding, learner well-being, adequacy of staff skills bases to manage disruptive behaviours and specialist needs and ensure educational outcomes are met, increases in placement breakdowns subsequent Tribunals and legal costs. Moreover without educational provision equitable to that within Specialist Colleges being provided within mainstream Further Education Colleges, the skills bases and life chances of such disabled young people will be further disadvantaged.

The potential for a false economy is evident as monies that could be allocated to ensuring that disadvantaged young disabled people are given every opportunity to develop independence, vocational skills and self esteem and the subsequent reduction on the longer term public purse that such achievements bring, through the expertise of Specialist Colleges will be channelled instead to pay legal fees and may result in Local Authorities paying further costs if placements in an ISC is the outcome of a Tribunal. There is unambiguous evidence that investing in the now will reduce future costs.

It is important that the Bill is not constructed in such a way that Local Authorities are pressured by budgetary constraints into making unsatisfactory decisions in the knowledge that a Tribunal with the associated disruption, costs and distress they bring is a preferred and defensible vehicle to an initial agreement that a placement at an ISC best meets an individual's educational needs.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
	X				

Supporting comments

We are hopeful that the Bill would provide a basis for an improvement in the way that agencies work together to deliver for children and young people with Additional Learning Needs. Any collaborative framework must ensure that decisions made are done so in the best interests of individual learners and that person-centred educational outcomes guide decision making. The different priorities, resources, knowledge, experience and seniority of stakeholders has the potential to result in gross inequalities within and across Local Authorities. The weight of budgetary constraints and management will inevitably compromise participation and ability for co-operation from being able to attend relevant meetings to agreeing funds available to support the educational needs of young people with multiple and complex learning difficulties and disabilities. This reinforces the importance of clarity in thresholds of responsibility and that young people and their families are provided with independent and impartial Advocates who can ensure decisions made are done so in full light of the options available to them.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>

Supporting comments

In essence, the provision of a clear appeal system is to be welcomed. Emergent issues are consistent in that the success of the process will rely upon:

- consistency within and across Local Authorities;
- impartiality of decision makers;
- young people and their families being informed and supported about processes;
- associated professionals have skills bases and work load capacity to support disagreement avoidance and resolution.

The code of practice must be written with transparency and accuracy in order for the bill to have a chance of improving the all Wales delivery of ALN educational training.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

For the most part, the college supports the principles cited within the ALN code. In parallel to the main consultation document however, the implementation and operational parameters within which the code operates in practice will determine its efficacy in meeting its expressed intentions. For example, the assertion that 'What is important to and what is important for the Learner (ALN code principle 310)' be a component of an IDP will of course depend on the quality and neutrality of the information gained and used.

In order to improve service provision for young people and their families, the move from centralised to devolved decision making needs to ensure that the ALN code is clear, concise and able to fully support decision makers. A fundamental question for us is how will an FEI's capability to meet individual learning needs be assessed, on what criteria, and who by? In light of financial restraints facing all Local Authorities it is increasingly important that all stakeholders are fully informed that referrals to ISCs are made as a consequence of the high level and specialism of individual learner needs. Environments are created to support students for whom the demands of participation in mainstream provision are too great. For example, young people with autism are offered a safe, consistent and highly supported environment and a wholly person-centred and tailored individual learning plan is created to promote autonomy, independence and skills.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Continued reference is made throughout the proposed Bill to 'if needs cannot be met locally'. Geographical equations are unwise and counter to the paramount consideration of what is in the learners' best interests and will ultimately save money from the public purse. That said, Coleg Elidyr based in Carmarthenshire near the Powys border could be deemed local or comparatively so for a significant part of South West Wales. Hence the continued implicit message that meeting needs locally excludes Specialist College provision is both inaccurate and confusing not least for young people and their parents tasked with negotiating the requisite bureaucratic frameworks in order to secure education provision fit for purpose for the specialist needs of their sons and daughters.

In principal, the college has no objection to the creation and maintenance of a list of approved Independent Specialist Colleges providers however without more information on the requisite criteria for approval we are unable to fully agree to the proposal.

The concerns raised in the response above are made cognisant of the pressure on the Welsh Government and Local Authorities to reduce costs across service provision. Drawing on the experiences of providers in England, where securing funding for an ISC following the breakdown of Local Authority Placements and subsequent successful Tribunals against Local Authorities is increasingly the norm, the efficacy of the introduction of a comparable approach in Wales must be questioned not least in relation to the pressures placed on individual families and associated legal costs for Local Authorities. Moreover, the proposed system without independent and free advocacy provision for families to ensure they are aware of all their options risks narrowing the diversity of ISC student populations as only the most informed and resilient families will be in a position to navigate the demands of a Tribunal process. Thus further disadvantaging families of children with multiple and complex learning difficulties and disabilities for whom specialist provision may not only be the most suitable provision but the most cost effective.

As the forthcoming Welsh Government commissioned Estyn review of Transition processes in ISCs and Independent Living Skills departments of Further Education Colleges will no doubt evidence, the difference in the availability and promotion of work experience opportunities between ISCs and Further Education colleges is incomparable with little or no such opportunities being provided by Mainstream 'local' provision. For people with multiple and complex learning difficulties and disabilities, the ability to participate in the working world is a critical element of post compulsory education increasing life chances and satisfaction. As service providers if we are truly going to promote and protect the interests of young people with ALD, this should must be central to IDP's, college curricula and transition planning.

The move to a more stream lined and co-ordinated service for young people and their families is very much commended and welcomed by the College and following

the opportunity for revisions to the detail that will support this, the college looks forward to reading the next version of the Bill and further commenting on it through due process. We would also welcome representation on any consultation and planning groups with a focus on meeting the needs of young people with multiple and complex learning difficulties and disabilities and their families.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: **SEN Team**

Organisation (if applicable): **Ceredigion LA**

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	X
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	X	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We feel that this includes several separate questions rather than one! We agree with some aspects but disagree with others:

1. ALN

- We agree with the use of the term ALN, providing it is used to replace SEN only and is not expected to include a wider range of needs/vulnerable groups that ALN was used to refer to. We believe that it is only a matter of time before the stigma currently attached to the term SEN will transfer to the term ALN.
- However, the definition of the term ALN as “significantly greater” is open to interpretation and possible abuse. Is it intended to refer to statistical significance or is it intended as a more subjective descriptor? How would this definition be applied with regard to behaviour? The definition within the Bill and Code needs to be much clearer.

2. ALP

- Why do we need to create yet another new acronym? The term “provision” is currently used; can’t this continue to be the case? The term ALP/additional learning provision is likely to be redundant.
- Achieving consistency across settings is likely to be difficult according to the level of differentiation practised across classrooms, schools and LAs.
- If a school has the resources to meet needs, they maintain ownership and responsibility. If schools don’t feel they have the resources, they pass the responsibility on to the LA. Again, this is open to interpretation as well as abuse.
- The definitions used in the Bill (and Code) need to be more specific and precise in order to be more consistent across schools and LAs. We need measurable criteria that teachers, parents, pupils and LA officers can recognise and agree on.

3. 0-25 age range

- While we agree with the principle of extending the age range for young people with SEN/ALN we do not feel that this is feasible in the current economic climate.
- This proposal as it stands is a missed opportunity for making a real and effective difference. Legislating for changes within education services only is not going to be effective.
- Unless additional funding and provision is made available then extending existing provision and funding to cater up to 25 will be ineffective.
- Pursuing this principle without sufficient funding will dilute the provision for children and young people from 0-19.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We do not agree that the draft Bill is robust enough in its present form.

We have concerns regarding:

- IDPs - It is still not clear what an IDP document will look like. From the information available it appears that they may be very lengthy documents. The plans will also tie ALNCOs and LA officers up in IDP reviews for an enormous amount of their time which will have a knock on effect on standards.
- The lack of a graduated response suggests that schools will need to create and maintain IDPs for all pupils who receive intervention (those currently on the school action threshold). This will increase ALNCOs' workload to an unmanageable degree. If this is not the intention, clear criteria for which pupils will need an IDP and which will not will need to be written into the Bill and Code.
- Responsibilities - We have concerns regarding the crossover between the responsibility of schools and the responsibility of LAs – we feel this is not robust enough. The risk is that schools may not take enough ownership of meeting needs.
- The reference to "Governing Body" in the Bill and Code should be clarified to refer to delegated responsibility to the head teacher. Governing bodies is misleading as they are unlikely to be so directly involved with the personal details of individual learners who have IDPs.
- Widening the right to appeal - Increasing the legal accountability from statements only to the whole range of SEN/ALN is highly likely to lead to a sharp increase in the amount of time which LA officers spend in Tribunal hearings. We anticipate that there will be considerable and potentially unmanageable demand from parents and schools for IDPs, at what is now School Action.
- This will take them away from being able to spend time on supporting schools and teachers in meeting pupils' needs and raising standards. It will also have implications for the use of funding – at the same time as raising the expectations for young people up to 25.
- Accountability - We are concerned that there is a lack of clarity with regard to the position with FE colleges. They can make referrals for provision to LAs but LAs are unable to monitor the provision available in FE colleges.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	disagree	<input type="checkbox"/>
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Supporting comments

While we agree that the interests of children and young people with ALN are promoted through the Bill (and Code), we do not agree that they will be adequately protected by it. High aspirations will only result in improved outcomes if the processes and strategies are effective enough.

The importance of capturing the pupils' voice and ensuring that the child is at the centre of all decisions and processes has certainly been strengthened. We applaud this. However, we feel that the previous legislation was based on very sound principles of thorough assessment, early identification and regular and manageable review. We are of the opinion that the draft Bill loses the element of robust assessment and allows schools to absolve themselves of the responsibility by passing it on to the LA. This is unlikely to be in the best interests of children and young people.

The existing lack of clarity around framework, structure, processes and accountability mean that the draft Bill is not likely to protect and promote interests as there can be no confidence that children and young people's needs can be properly understood.

In its current form, it appears that the processes will end up being even more bureaucratic than the current system – leaving little time for the delivery in order to meet children/young people's needs outside of formal meetings.

There is also a real danger that key staff may not be able to actually attend all of the different meetings that would be required by the processes. This situation may render any action plans drawn up during meetings ineffective – and possibly necessitate another meeting as a result. The burden on ALNCo and LA officers' time needs to be considered realistically in terms of the number of children/young people involved.

There is potential conflict between the parents' rights to make decisions for their child and the child's right to make or influence decisions. There are concerns about the need to determine the capacity of the learner to make independent decisions and the potential conflict with the right of the parent to make decisions for their child. Comprehensive guidance and national criteria for determining capacity is required.

The national agenda regarding raising standards in schools is working against the inclusion agenda. The aims of the legislation will not be delivered while this remains the case. Schools with specialist resource centres are not seen by WG as 'Green'. These standards need to reflect the inclusive challenges being delivered to by these and other inclusive schools.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We applaud the appointment of a designated officer from Health services. This will undoubtedly aid increased collaboration. However, we do have concerns about the detail that may be involved in these individual job descriptions. We also have continuing concerns regarding the realism of collaboration as far as funding is concerned with all services facing severely reducing budgets.

There is a difference between agreeing the prescriptions required to meet the needs of children and young people and agreeing the funding contributions from each stakeholder. This element needs to be strengthened within the draft Bill. Unless the LHB is also accountable, the new duty to deliver any ALP it has agreed to provide does not go far enough. The Bill needs to ensure that the LHB has a duty to identify needs, make provision for the needs it has identified and be accountable to the Tribunal for any disputes over the provision.

In addition, we feel that there is likely to be inequality resulting from the option of a DMO or DCO with different labels. One level or the other should be decided upon so that the impact of this development is equal across all LAs.

We fear that agencies do not have the capacity to respond to the increase in numbers, which will follow the introduction of the new system for all learners with ALN 0-25 years, along with the increased opportunity for requests to review IDPs. Overloaded services will be forced to try to prioritise co-ordinated multi-agency meetings and there is the danger that we will see a return to inconsistent provision, agencies having to work in isolation, the inevitable loss of trust of parents and learners and a return to the an adversarial system with the feeling of having to 'fight' for the rights of the learner. Health and social services are unlikely to commit to services in an IDP where they work to a resource led budget rather than a needs led budget. Their priorities are and will remain, different.

We have concerns that schools may resist providing an IDP because they do not have the capacity to cope with the necessary review meetings and that this will lead to increased referrals to the LA.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

On the contrary, while we support parents' rights to challenge decisions in principle,

widening the right to formal appeal across the entire range of ALN is going to result in increased disagreements and adversarial standpoints. It is more likely to hinder co-operative working and resolution. It will form additional barriers between parents and schools and between schools and LAs and between parents and LAs. This, in turn, will take up a great deal more of the budget and staff time in negative negotiations. This, again, is unlikely to be in the child/young person's best interests.

We would prefer to see the right to Tribunal appeal limited to those with the most complex and severe needs as is the case currently. This would necessitate a criterion referenced cut-off point for recognition of such needs.

Introducing a new right of appeal at the decision as to whether a child or young person has ALN is likely to increase the number of those with IDPs and include many who do not have ALN as schools will not want to fall out with parents at this stage. This in turn adds unnecessarily to the ALNCO's workload in a way that is not effective for meeting the needs of pupils.

The requirement to provide access to DRS should only be after the LA has had the opportunity to resolve disputes itself. The DRS is very expensive and if these services are too readily available to parents and children/young people, the costs will undermine the provision of services generally. Parents and children/young people should be encouraged to approach the LA directly in the first instance before seeing either disagreement resolution or appeal to Tribunal.

The LHB and SSD will need to be held responsible for funding and attending DRS and Tribunals which are directly the result of disputes over LHB assessment and provisions. Education cannot continue to fund and attend disputes over needs which they do not have the clinical knowledge to assess, nor the clinical governance to provide. There must be an incentive for the LHB to resolve problems early.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We do not recognise the reference to “draft Explanatory Memorandum (including the Regulatory Impact Assessment)” if such a supporting document exists, we are either unaware of it or do not recognise it using these terms.

We agree with:

- the principles laid out in the draft ALN Code of practice but feel that these are achievable under the current legislation;
- the principle that meeting the needs of learners with ALN should be part of whole school improvement and welcome the fact that it has been specified so overtly in the Draft Bill/Code;
- the emphasis on the fact that meeting the needs of children should take place in a mainstream setting wherever possible. We welcome this and the clarity with which it is stated;
- putting the child at the centre of all decision making. We welcome this shift.

Our concerns are:

- the draft framework is too woolly and will therefore lack effectiveness in terms of meeting the aims;
- the lack of clear definitions and criteria that would ensure equitable provision across different schools and LAs;
- the lack of additional funding to enable LAs to extend provision and inclusion;
- LAs are being tasked with accountability for significant areas of responsibility over which they have little or no control, given that school funding is largely delegated and the governance of the further education sector lies outside Local Authority remit;
- when we look at the reforms in England, the concerns that have been raised there centre around what they have lost and we would be concerned about Welsh reforms repeating the same mistakes;
- The draft Bill and draft Code of Practice fall short of our expectations when there was an opportunity to have a complete and much more effective overhaul of additional learning needs legislation;
- We feel that a criterion referenced cut-off point for the recognition of where and when schools' responsibilities end and LA responsibilities begin is required;
- The draft Bill and Code remains open to interpretation and possible manipulation resulting in continued variation of practices across LAs;
- There is a danger that the good practice represented in the current Code of Practice may be lost to the detriment of children and young people with additional learning needs;
- SENCos have considerable teaching commitments which they will be unable to sustain when their workload expands as the numbers of learners with IDPs increase. There needs to be improved training for class

and subject teachers to increase capacity to respond to ALN through high quality class teaching and differentiation. Too many learners have to be provided with 'specialist' interventions because class teachers do not have the necessary training and skills to respond to needs at the universal level.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The principles of the proposed reforms are laudable and achievable. However, we do not feel that this transformation is sustainable or achievable when extended to include all children/young people with ALN 0-25 yrs and in the current climate of cuts and reduced capacity.

The proposed system is unnecessarily complicated and bureaucratic and does not meet the expectation of a clear, user-friendly, equitable and national process. There is disappointment that the principle of multi-agency working towards a single plan is compromised. Further, the increased bureaucracy to manage IDPs possibly detracts attention from those with the most severe and complex of needs.

The suggestion that IDPs should be issued without core pieces of advice undermine the principle of working in the child or young person's best interest. If ALN are not properly understood they will not be properly provided for.

At the level of the LA IDP, there should be clear specification of the required advice providers who would contribute to the multi-disciplinary assessment to inform and understanding of a child or young person's additional learning needs. It is noted that the current Code of Practice makes this absolutely clear, as does the English Code of Practice.

Core advice providers should include the parents and child, the educational perspective from school or specialist, an educational psychology perspective, a health perspective, including additional specialist contributions such as speech and language or occupational therapy etc and a view from social services as necessary.

Workforce development is critical and there is a need for SENCo training to be clarified and costed across all settings. Also graduated training for TAs and critically important to ensure that classroom teachers are given the tools to be inclusive (teacher training).

There is a lack of clarity in terms of who leads IDPs in early years settings.

Because the funding in Wales has not been coordinated as in England across FEIs, a college may not be able to fund an IDP as they cannot draw down the funding (e.g. dyslexia support is possible in schools without a formal diagnosis from an EP or AMDA qualified specialist, whereas FEIs currently need this. It is a problem now and will be made worse by the statutory demand that it is provision.

The distinction between a school IDP and LA adopted IDP is the same as the statement/non statemented division. It will be little different to now except that the IDP will be written in half the time and therefore is in danger of being less thorough.

The Bill (Act) will be judged by the experience of parents. Their expectations will be raised through this process and the evidence suggests that their hopes will not be realised. The reduction in budgets across schools, colleges and Local Authorities will limit what can be achieved. Parents will still have to 'fight' for the IDP that will deliver the provision they want for their children (i.e. an adopted IDP) and the LA will still rely on evidence of need of what the school has done in order to make that decision. An Act aimed at reducing the 'fight' should not introduce more opportunities to be in dispute and more agencies to be in dispute with.

We strongly feel that a criterion referenced cut-off point for the recognition of where and when schools' responsibilities end and LA responsibilities begin is required. Ceredigion currently operate a system where schools are responsible for meeting the needs of all pupils on School Action and School Action Plus thresholds via delegated SEN funding. Where additional funding/resources are required, clear criteria are in place whereby the LA takes responsibility via a resourced agreement contract (SAPRA). We would be happy to share our strategy with Welsh Government officers.

This would also help ameliorate a lot of the concerns we have listed in response to the questions above.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input checked="" type="checkbox"/>
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	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The proposed legislation is not sufficiently rigorous to ensure pre school children have access to specialist support.

There is a critical period in which the potentially limiting effects of hearing impairment on language development can be changed through parental support and use of efficient auditory input, visual communication strategies or a combination of approaches to facilitate age appropriate language at school age. Research suggests the first 6 months for congenitally deaf babies, but this can change for progressive or acquired losses.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Within the preparation of IDPs, the duty to favour mainstream schools may not be in the best interests of the child/young person. A special school should be viewed as a positive option for some pupils.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Section 29, Duty to favour education for children at mainstream maintained schools: “unless this is incompatible with the wishes of the child's parents or the provision of efficient education for other children”

These statements show that the best interests of the individual child are not paramount.

Professional opinion may conflict with parental wishes, but have the breadth of experience on which to base realistic predictions of outcome.

The negative impact on the needs of other children may lead to the stigmatising of children with additional needs and the reduction of current inclusive practice.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

There are several statements suggesting that health boards are not obliged to provide specified services or requirements.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

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Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Whilst there is information regarding the additional training of the general teaching workforce and specific additional training for ALNCos, there is not a clear specification for the mandatory qualification for teachers of low incidence sensory impairments, ie. TOD/HI QTVI TMSI. The routes to gaining these additional qualifications are not noted. The assumption of the retention of the mandatory qualifications is made through fleeting reference such as section 332 on page 69 of the draft code.

The code also refers to places where “the school specialises in low incidence provision, such as visual or hearing impairment” yet again does not advocate the retention or development of specialist resourced provision in the drive for universal mainstream education.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The draft bill does not specify that the ALNCO must be a teacher, although this is clarified in the code. This contrasts with the specifications for the Designated Medical/ Clinical Officer.

Section 48 on page 28 of the draft bill specifies that “the health body may bring it to the attention of the appropriate body,” but MUST would ensure sooner provision of appropriate support.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

X

Consultation response form

Your name: Judith Rees and Judith Sargeant

Organisation Fitzalan High School

e-mail/telephone number

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Education professionals	<input type="checkbox"/>
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	Local Health Boards	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

1. ALN - agree however we feel that there needs to be protection / legislation for those other "ALN" learners identified in the "Pebbles Document."
2. 0-25 Disagree - possibly 0-21 feel that resources would be spread too thinly and by this time these learners are adult. However for some of the most vulnerable learners - those mainly in specialist provision would need an IDP or similar for longer. It was also felt that there could be difficulties as paediatric health teams cease involvement at 16/17 as do Social Services.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

As long as they follow option 3 in the published proposals.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Agree that the Bill intends to protect the interests of all learners with ALN however we have concerns about the nature of the robust mechanics for monitoring compliance

with the requirements of this Bill.

Additionally there are concerns about schools' capacity to meet the statutory requirements. Furthermore there are concerns about the capacity of some parents to fully understand and be realistic about their expectations for their children.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It should do but a concern is the role of children's services which is scarcely mentioned in the Bill. If a child's needs are to be met holistically it is likely that in many cases SS will have a role to play.

Establishing a robust communication structure that all parties are legally obliged to adhere to would be beneficial.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

As a restorative school we welcome the approach set out in the Bill. However there are concerns about the scope of the Bill (making the provision of SA SA+ and statements statutory) could result in more appeals going to tribunal taking the focus away from provision.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We have concerns about the timeframe surrounding the suite of legislation i.e. the ALN Bill is being consulted upon now but the Code of Practice is possibly not available for consultation for another year

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We have strong concerns about the practicalities surrounding the joined up working of health, children's services and education which arise from the way these sectors are organised. School largely operate on a cluster basis, local authorities and health boards do not share this practice or have the same geographical boundaries. This concern is further exacerbated by the uncertainty regarding local government reorganisation and the future roles of the LA Consortia. There is also concern about the potential impact of the Welsh Government elections in May 2016.

As a school we were involved in the IDP pilot – at one time there was an on line tool available so that all parties could add their input for IDP reviews. Due to security concerns this was removed but we feel that for the IDP process to work effectively something similar needs to be in place which is compatible with what already exists in health, education and children's services.

The capacity of schools to produce effective IDPs for all learners with ALN is a concern. As a school we have major difficulties engaging parents (which we work hard to overcome) for a variety of reasons – lack of education themselves, fear of the education system (often as a result of their own educational experiences), language barriers and the logistics of actually attending reviews, meetings.

We feel it is important that there is a common format for IDPs across all of Wales, which is linked to Sims or something similar and comes across with other information on CTF files. Of course the format would be different dependent on what stage the learner is on, SA, SA+ or a statement. We also wonder whether the IDP will link with current provision in England. Especially as we regularly have students come to us from schools all over England and Wales.

There is a potential risk that the scope of the plans for IDPs could hamper the genuine efforts of most practitioners to best meet the needs of each individual as soon as those needs are identified even if these needs are transitory

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

ALNET57

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Postives:

- No issue with the terms ALN or ALP.
- Ideally any areas of difficulty should be identified before pupils begin school.
- Should aid smoother transition between each key stage.

Concerns:

- Limited resources/ finances spread even more thinly.
- The 0-3 age range is more crucial than the 19-25 due to the importance of early identification.
- Identification between 0-3 will only assist in the identification of pupils with severe and/ or profound physical needs/ difficulties.
- Accurate identification between 0-3 will depend on the skills and expertise of the staff in the pre-school provisions, the access they have to specialist services and the close liaison between health and education. Flying Start areas have more access to the EPS and other specialist agencies which assist in earlier identification and provide advice in regards to the ALP needed?
- What is a ‘significant greater difficulty in learning’? Clarification needed. One school’s interpretation may be different to another. Would the current School Action cohort of pupils be classed as having this ‘significant greater learning difficulty’? Will this result in these pupils falling through the net and their needs not being addressed?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

*Would be useful to see an exemplar IDP.

Positives:

- Consistency across Wales
- Cumulative document
- Multi agency/ service approach to reviews

Challenges:

- When should an IDP be issued? There's a lack of a 'graduated response', which schools feel is currently helpful.
- Mandatory content of an IDP is extensive- time consuming process. If it is the ALNCo's responsibility for these then where does the time come from when the school has no money in the budget to cover supply costs? ALNCo could be a full time post with no teaching responsibility.
- Practicality of reviewing the large number of IDPs- this will mean a substantial amount of time away from teaching and learning for the key staff members involved
- The requirements will deter staff members from wanting to undertake the role. This is compounded by the fact that the Draft Code does not specify clearly enough that the ALNCo must be part of the SMT. It currently reads 'The role should be viewed in the same light as other strategic roles undertaken within the education setting and the ALNCo should therefore form part of the senior leadership team'.
- Although it should be a working document, the statutory responsibility to review only once a year may mean some schools may only adhere to this. Paragraph 288 pg 60 of Draft Code begins 'It may be necessary to set interim targets and to monitor the impact of the ALP on the child or young person's progress' is inadequate. It should read 'It will be necessary...'
- Capacity of specialist agencies and representatives from health to attend every review they are required to attend and/ or provide advice in the timescales given.
- Guidance would be appreciated in what the length of an 'Annual Review' of an IDP should be?
- Unreasonable timescale requirements.
- Greater specificity needed in terms of when the school should pass the responsibility of the IDP to the LA.
- Places the LA and schools into conflict.
- Currently lack of expertise in mainstream staff – who will provide and cover the cost of the training needed?

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Positives:

- Child is at the heart of the process

Challenges:

- Making documentation child friendly
- Who will perform the role of case friend? Will they have the skills and knowledge to contribute to the process in a positive way?
- Concerns around the child's/ young person's right to appeal. Do they have the capability and the understanding to know what's best for them?
- Is it always appropriate to involve the child in meetings?
- Time needed for ALNCos/ teachers to perform person centred approaches i.e. what's working, what's not working.
- Put parents and schools/ LAs into conflict.
- Pupils with ALN but are not 'significant' will be lost.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Positives:

- Working together in the interests of the child is always beneficial.
- In theory this will increase expertise.
- Potentially less meetings for the child and parent(s).

Challenges:

- Paragraph 328 chapter 13 of the Draft Code reads 'A key principle of this code is that all involved in providing support to children and young people with ALN should work together...' The word 'should' should be replaced with 'must'.

- Logistics due to the number of specialists potentially involved and their capacity to participate in the process. Services are stretched/ under staffed as it is and this is without the extended age range.
- There is currently a lack of specialist teachers in sensory (HI/ VI) currently, which means they don't have the capacity to attend annual reviews when they are requested to. How will the extended age range be catered for? Training/ cost implications.
- Is attending reviews always the best use of the specialists'/ health professionals' time? Wouldn't they be better placed delivering therapy to children rather than in a meeting?
- Should there be a minimum attendance at these reviews?
- Health's participation seems optional?
- Current timescales to access services in health such as CAMHS does not support best practice

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Challenges:

- Creates conflict rather than resolves it between all parties involved.
- Financial implications of appeal.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Welsh language element- resources for Welsh medium schools, ability of support services to cater for the Welsh Language provisions i.e. SALT?

Some of these questions encompassed too many elements. More than one question in a question! Agreed with some elements but not with others, therefore couldn't indicate 'agree' or 'disagree' to conclude.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Consultation response form

Your name: **Claire Dorer**

Organisation (if applicable): **National Association of Independent Schools & Non-Maintained Special Schools (NASS)**

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input checked="" type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NASS agrees that the definitions of ALN and ALP as set out in the draft Bill is appropriate with regards to the document's primary focus on educational needs.

We also endorse the decision to no longer limit the applicability of these terms to only those under 18 years old. NASS believes that the transition into adulthood should be supported for those young people that require additional assistance. Currently, there is frequently a significant reduction in support for children as they leave the school system and move on to either work or a further education settings. The unification of the system of assessing CYP up to the age of 25 creates the potential to ensure a greater degree of continuity in providing appropriate support.

Additionally, it would appear that the Bill provides the basis of system that will be able to reflect both the needs and participation capabilities of the age range encompassed. However, we are keen to see further details in the Code of Practice.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

We are satisfied that the language contained within the Bill presents a broadly clear outline of the duties and responsibilities of schools, FE institutions, local authorities and Local Health Boards/NHS Trusts with regards to the preparation, execution and review of IDPs.

As an association for schools outside of LA control, we are concerned that Bill does not set out registered independent provision as being covered by the Code of Practice. This is a significant departure from other UK legislation and we think this should be covered. It is also

unhelpful not to include independent schools in the section on different types of provision and their role in IDPs. In English legislation, there has been recognition of the role of independent provision within the 'continuum of provision' and this is reflected across the Children and Families Act and secondary legislation. We do not feel it is helpful to deal with independent provision in the Act as separate to all other types of provision. We are extremely disappointed to see the choice of independent provision appearing to rest solely with the LA, rather than being an actively supported parental choice. We are keen to see further details on how schools become registered to appear on the list of independent provision that might be considered for a child.

We are unclear about why the Bill chooses to abolish non-maintained special school status. Whilst we are aware that there are no NMSS in Wales, many Welsh authorities purchase placements from English NMSS and it is unclear why it was felt necessary to change the legislation.

We are concerned that the language relating to the manner in which CYP participate in the formulation and review of their IDP is currently insufficiently robust. Every effort must be made to ensure that the Bill and its accompanying Code of Practice make clear the requirement to facilitate the participation of CYP in the formulation and review of their IDPs. This must include granting the ability of CYP (and their parents/carers) to - where necessary - offer input into decisions regarding which school or other institution the CYP will attend.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

It is vital that ALP is seen as part of a path to a desired end state, as opposed to being an end in themselves. We believe that significant potential exists to close the attainment gap between those individuals with ALN and those without, and that the Bill as currently drafted represents a significant enhancement of existing arrangements.

However, NASS is concerned that a number of the initiatives introduced within the Bill may suffer as a result of capacity limitations. Most notably, we are sceptical that it will be possible to field sufficient numbers of suitably qualified ALN Coordinators (ALNCos) in an acceptable timeframe. It is vital that adequate resources are allocated in both this and other areas in order for - what we believe are - sound theoretical plans to be transformed into tangible results.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

NASS supports the Bill's focus on multi-disciplinary working and co-ordination to bring together support and expertise from education, health and social care professionals at the earliest stages of the assessment process. The new requirement for agencies to share information is a particularly positive feature of the Bill.

However, NASS is concerned that independent provision does not have the same perceived role in the reforms as other types of provision. The rationale for this is unclear and leaves the Welsh draft legislation adrift of other UK legislation, which has actively encouraged the involvement of all types of provision in recognition that parents and young people often seek out and prefer specialist provision.

As an organisation that is familiar with cross-agency work, NASS is deeply aware of the practical difficulties of breaking down barriers to collaboration – particularly in circumstances where resources are strained. It will be important for the Code of Practice to strike a balance between elaborating on the mechanisms by which inter-agency collaboration can be enhanced without being overly prescriptive.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The Bill has correctly identified that the most important component to avoiding disagreements is the involvement of CYP and their parents/carers in the drafting and reviewing of IDPs. It is also important that – when disagreements do occur – this participation and the collaborative spirit that the Bill is in part designed to engender, should be preserved wherever possible. Putting in place a framework that supports disagreement resolution at the earliest possible point will help to facilitate this. As a last resort, NASS

recognises the utility of tightly defined and binding tribunal provisions in bringing closure to disputes. However, we do feel that the lack of unequivocal inclusion of independent provision will be a barrier to creating a less adversarial system.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Although we recognise that the ALN Code that accompanies this draft Bill is only an illustrative draft designed to aid with the analysis of the Bill, NASS commends the Welsh Government's decision to utilise language outlining the clear and legally enforceable parameters within which local authorities, and other organisations responsible for the delivery of services for children and young people with ALN, must act. We would strongly support the incorporation of this approach into the final ALN Code.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The role of CYP and parents/carers in choosing a school

NASS supports the Welsh Government's efforts to enhance the participation of CYP (and their parents/carers) in the formation and maintenance of IDPs. However, we believe that there remains a need to codify the ability of CYP/parents/carers to provide input into the decision regarding which school the holder of the IDP attends. This would be particularly important for those CYP with high needs who cannot be supported in a mainstream setting. As noted elsewhere, there is no clear right expressed in the legislation for children, young people and parents to have a preference for independent provision met.

As a result, it is our view that additional provisions should be made within the Bill and/or Code of Practice to grant the parents or CYP the right to request that a particular school (maintained or registered independent) or other institution is named in the IDP. England's *Children and Families Act 2014* ([Clause 38](#)) incorporates such provisions, and whilst not binding on local authorities (who can reject preferences on grounds of appropriateness or cost), NASS feel that this ability to provide input into what will often be the single most critical component of an IDP is vital if genuine participation is to be secured.

Looked after children

NASS supports the efforts of the Bill to integrate the provisions it contains to support looked after children with similar arrangements included in the *Social Services and Well-being (Wales) Act 2014*. In particular, we are in favour of the provisions in the Bill that will allow IDPs to replace or serve the function of Personal Education Plans (PEPs) that looked after CYP are provided with under the *Social Services and Well-being (Wales) Act 2014*. The high proportion of looked after children with ALN means that integration of the support provided to them is vital to ensure efficient delivery.

Non-maintained special schools

NASS is concerned by the provision within the Bill which abolishes the power of Welsh Ministers to approve the creation of non-maintained special schools (NMSS) in Wales. Whilst we are aware of the fact that there are currently no NMSS in Wales, it would seem that removing the ability of ministers to approve their opening represents a reduction to the scope for new provisions to be created at a time of increasing demand.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Meleri Thomas

Organisation (if applicable): National Autistic Society Cymru

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NAS Cymru believes that in principle the term Additional Learning Needs [ALN] has the potential to encompass an individual's learning needs in its widest sense, including their developmental needs.

Similarly, we believe the term Additional Learning Provision [ALP] should reflect the fact that while the focus remains on learning, it also recognises that other agencies, such as health and social services, may need to be involved to help with a child's access to learning.

It is disappointing that the definition of both ALN and ALP as set out in the current draft Bill focus entirely on a person's educational or training provision, and the school setting itself.

This is especially true when it comes to children up to the age of three and after 16. There is very little detail around the ages 0-3 in particular, and the benefits of early intervention among people with autism is well documented. The benefits of early intervention include helping children with autism develop new skills, especially social skills. Parents can also learn how best to help their child develop working alongside specialists. Early intervention can also help reduce stress among parents and siblings of people on the autistic spectrum.

NAS Cymru would seek assurances from Welsh Government that in order to meet the needs of people with autism, the definitions on the face of the actual Bill and the Code of Practice will include references to a person's developmental and environmental requirements including:

- their communication needs;
- their physical and sensory needs; and
- their social and emotional development needs.

For people with autism, coping with change can be incredibly difficult. We are also concerned that there is a significant lack of detail around key transition stages, in the Draft Bill and the Code. We believe that there should be more clarity over who should be involved and a timeframe of when decisions and actions must be made. This should include financial decisions for specialist provision.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NAS Cymru notes that while the intention to include children, their parents and young people in the IDP process, the draft Bill only refers to ‘must have regard to... the views, wishes and feelings of the child and the child’s parent or the young person.’ That is much weaker than ‘a duty to involve’ and we would like to see the Bill strengthened to reflect this.

NAS Cymru would also support a national template for the IDP. This would help to ensure consistency and convenience, especially at transition points, and if the person who has an IDP moves from one local authority to another.

While we welcome the inclusion of the flexibility to review the IDP, NAS Cymru has some concerns that the decision to review within a shorter period that the mandatory requirements lies with the school, Further Education Institutions and local authorities. We believe that this goes against the person-centred approach to the additional learning needs reform and would not meet the fluctuating needs of someone with autism.

We would also expect the IDP to cover the non-educational needs of the person with additional needs, including their communication skills.

Before publishing the Bill, NAS Cymru would seek further clarity from the Welsh Government on these key questions:

- how the IDP process is triggered and what can parents, children and young people expect, especially for those outside of school age? and
- what are the transition arrangements for moving from the current system to the new IDP?

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NAS Cymru believes that reform of Wales’ Additional Needs provision is to be welcomed but regrets the lengthy and drawn out timeframe that has surrounded the process. We are also concerned that the Bill is still in draft form and that the reforms will not take place during the Fourth Assembly. Anecdotal evidence from our members and supporters also suggests that many Local Authorities are not currently giving statements to children and young people with special educational needs, despite firm direction from the Minister for Education that the status quo remains. We would welcome further communication with local authorities on this issue.

NAS Cymru believes that the draft Bill focuses too heavily on the education and training needs of a

person and we would like to see the Bill look at the wider developmental and environmental requirements, as detailed above and that these would also be included in an IDP. That would go some way to ensuring the interests of children and young people with ALN would be protected and promoted. The wider needs of someone with autism, as outlined are also crucial to ensure they are able to access the curriculum and meet their potential much more fully.

It is also important to ensure that people with additional learning needs receive all of the provision contained in their Individual Development Plan.

NAS Cymru would support the Welsh Government's ALN Reforms in ensuring high aspirations and improved outcomes and would welcome their specific inclusion in the draft Bill and the code of practice.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NAS Cymru is not convinced that the draft Bill will provide an improvement in the way that agencies work together and believes that there is a disproportionate onus on individual schools compared to the Local Authority and Local Health Boards.

As currently written it is the responsibility of the school or further education governing body to secure the additional learning provision, described in an IDP. We believe that this does not address the needs of those aged between 0-3 years old.

A governing body is mainly made up of volunteers. NAS Cymru is concerned that there will be a lack of knowledge and expertise among members of the governing body to:

- identify whether someone has additional learning needs, including autism; and
- ensure the right provision, for each pupil identified with ALN, including autism

We welcome the inclusion in the draft Bill that each school must appoint an Additional Learning Needs Coordinator [ALNco] and that person must have prescribed qualifications. We would expect that this includes an autism specific training requirement. We do however have some concerns over the weight of responsibilities of the ALNco outlined in the Draft Additional Needs code and that person's ability and capacity to draft, maintain, implement and review the IDPs of each and every person identified with additional learning needs within the school.

We note that in the draft Bill there are occasions when a governing body can refer both the decision of whether the person has additional learning needs and responsibility for securing provision to the Local Authority. However, we believe that this is undermined by the ability of the Local Authority to 'direct' the governing body to maintain a plan and any subsequent provision.

We are very concerned with the wording around the involvement of the Local Health Board. In Part

2 Section 14 [1] of the draft Bill says that a Local Health Board has to agree that it has a role in an individual development plan. In practice this could mean that it can simply decide that it does not agree that it has a role to play and therefore will not have to secure any provision. We would urge the Welsh Government to:

- hold immediate conversations with Health Boards and Local Authorities to seek agreement on how they must work together; and
- strengthen the language around the duties on Health Boards in order to meet the health needs of people with disabilities, including autism.

We note the draft Bill's intention to create the role of Designated Medical or Clinical Officer. We would seek further clarity on

- the nature of the role
- how the Designated Medical Officer will be different to Learning Disability Nurses that already exist
- the level of decision making
- the relationship with the Additional Learning Needs coordinator

Furthermore, we would also question whether one person in each local Health Board is sufficient. According to the Welsh Government's figures, some 105,000 pupils currently have special educational needs. By extending the age-range to 0-25, the numbers of people with Additional Learning Needs will inevitably increase.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NAS Cymru believes that a Local Authority must signpost people directly to an independent advocacy service, as part of its duty to provide information and advice. We would strongly disagree with the current wording in the draft Bill which states that a child or young person 'requests' independent advocacy.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

NAS Cymru would expect the inclusion of autism awareness training as part of the ALNco qualification.

We would also urge the Welsh Government to ensure that the Code of Practice includes a specific autism pathway, and would be happy to work with the Government to ensure this happens.

NAS Cymru would urge the Welsh Government to include a duty in the code of practice which requires all funding decisions on specialist provision for those in Further Education to be made by 31 March each year to ensure greater efficiency and consistency for people with ALN across Wales.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Inclusion Service

Organisation (if applicable): Education and Transformation Directorate, Bridgend.

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The term Additional Learning Needs is appropriate and the age range from 0-25. However, the definition requires more clarity as it covers children and young people with needs of differing levels of severity. Any definitions used should allow for proper determination of levels of need. With the extended age range there are implications for LA resourcing.

There is a lack of human resources and provision for post 16. The type of post 16 provisions across Wales should be identified in the form of provision mapping. Furthermore, the LA have not worked with post 19 population before, therefore there needs to be a high investment in training, funding and additional workforce to cater for this age group.

There is no mandatory responsibility for the Educational Psychologist written into the Bill. Therefore, the needs of children with ALN, particularly those with complex needs cannot be properly identified. The essential role of Educational Psychologists in all complex cases referred to the LA must be recognised.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It is unclear what is meant by ‘maintaining’ the plan when the IDP is held by the LA. The processes are not specified and it is difficult to see how the IDP can be a working / flexible document when the IDP is maintained by the LA. There is concern over the LA ‘securing’ provision in those cases when it holds the IDP, particularly with regard to FEIs and independent schools when it has no control over them.

A graduated response should be clearly specified within the Bill and the Code and, ultimately, local authorities, basing decisions about the next step in the process on

the outcomes of the previous step.

The essential role of Educational Psychologists must be recognised to ensure that children and young people in Wales have the same rights of access to an EP as those in England.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There are concerns about the role of the case friend and the Advocacy Service to support children and families. These roles and functions need to be clearly specified to ensure that they are working in the best interests of the child.

The roles and responsibilities of those involved in the IDP process, i.e. schools, Local Authorities and FEIs, are not clearly defined. Therefore, there is no robust legal framework for the preparation, maintenance and review of IDPs.

The interests of children and young people with ALN cannot be protected and promoted if there is no clear understanding of what constitutes an ALN.

The concern is that Health have no statutory responsibility to attend IDP reviews or be involved at the planning stage for IDPs. Health need only provide the ALP that they have agreed to. This means that if the Education Tribunal were to determine that further Health provision has to be provided and Health do not agree, then the LA has to secure the provision. This has huge implications on LA resources when the commitment should be from Health.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

A person centred approach and planning meetings demonstrate good practice but must be resourced appropriately in order to ensure the effective formulation of IDPs.

As mentioned above in question 3, because of the lack of statutory commitment by Health, it is likely that there will be less collaboration and more conflict between Health and the LA. Furthermore, there is likely to be more conflict between schools, and the Local Authority because of the lack of clarity around who should determine an ALN and who should provide the ALP. There is also likely to be more conflict between parents and schools over resources, which ultimately falls to the LA to resolve in dispute.

A PCP approach will not lessen the likelihood of appeals as the dispute is always around ALP, which places pressure on resources both at the school and Authority level.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The legal framework is limited to ‘education’ issues rather than including Health. This is the fundamental difference between the ALN bill and the Education and Health Care plans in England, which have Health commitment.

The Bill provides an appropriate framework for disagreement avoidance and resolution but there is an assumption that under the new procedures there are likely to be fewer tribunals as disagreements will be resolved at an earlier stage. However given that all IDPs are statutory there is the potential for a high use of advocacy and disagreement resolution services as parents try to ensure that their child receives the necessary support.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e., draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The draft Explanatory Memorandum minimises the impact of the financial and human resource implications for the LA, which we disagree with. A larger workforce is required and sufficient funding to implement the Bill, including training, IDP implementation and provision mapping at post 16.

We do not consider that the current Draft Bill and Draft Code of Practice properly incorporates the conception of a graduated response and highly specified approaches to identification and assessment.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Resources is key both human and financial resources.

The named person from health is key. There are concerns regarding the capacity of the Health Team.

There is not enough emphasis placed upon Social Services and the 3rd Sector.

Compatible ICT system is key.

A provision map for each Local Authority would be of benefit.

Training is essential.

Funding issue as 19-25 is a new area.

Transport- Independent travel skills.

Local Authority reorganisation- how will this bill fit in.

There needs to be a cross reference to the Social Services and Wellbeing Act

There is recognition that there should be ALNCOs in schools and FEIs and a DMO / DCO in Health. However, there is no Local Authority Officer named in the Bill for the coordination of the IDP processes.

Welsh Medium Education.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Or completed electronically and sent to:

E-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions/ School Support Staff Union	<input checked="" type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The [REDACTED] would like to welcome the change in emphasis and Ethos outlined in the new Bill.

However we do believe that there is a need for more clarity in some elements of the Bill, Graduation and levels of funding being just two of the areas that currently are of concern.

We also feel that there is a need to ensure that transitional arrangements are as seamless as possible, when a young person moves from school to school, and or school to FE or HE. It is a massive step forward for young people who wish to move into Further or Higher Education to have the safety net of continued support in place, as long as systems can ensure a smooth transfer.

It is our view on behalf of our School Support Staff & FE Support staff members, that they should be more involved in the planning processes and needs appraisals that take place with regards the young person's ongoing needs, prior to plans being finalised for them to move to other schools or colleges.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Yes we do believe that the Bill will provide a robust Legal framework but only if:

The following areas of concern are dealt with.

1. Funding of the new system is sufficient to allow for full implementation, and unmet need provided.
2. Support, advice and advocacy needs to be available in a consistent way.
3. Processes/procedures need to be clear and concise to ensure clarity and ease of understanding.
4. Disputes need to be cleared up at the earliest opportunity, so access to Tribunals should be available as soon after a dispute arising as possible.
5. The role of the New ALNco, is potentially to complex and demanding, to allow just one person per school (also potentially classroom based) to undertake the full range of duties and responsibilities in an ongoing and sustainable way.
6. Full training of all of the professionals in this new process needs to be provided in a consistent way across Wales.
7. Clarity is also needed on which organisation will have the ultimate responsibility to ensure that the young person receives the support, advice and services that they need. In our view this should remain with the LEA to ensure that consistency of approach is ensured.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Yes, but only if the safeguards are in place, that will provide early assessment, packages agreed and implemented and disputes resolved ASAP.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Yes we do believe that improvements will be made, but we would refer you to the point made above, with one organisation taking the lead or providing the co-ordination of services provided to ensure that young people and their parents can get resolution to concerns as early as possible.

We do not wish to see individuals finding themselves in the middle of two or more organisations disputing who is responsible for a breakdown or failure to provide a promised service.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Yes, but it needs to be sufficiently funded and young people and their parents must

have consistent access to support, advice and advocacy services to ensure they are able to fully present their case properly.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The role of the ALNco will replace that of the SENco, many of whom are [REDACTED] members in Wales. We believe that this new role needs to be fully thought through and a number of things considered:

1. Is the role too demanding for just one person to undertake in a long term sustainable way.
2. What training is to be provided to ensure consistency and best practice is applied across the whole of Wales.
3. Will there be a need to consider a set of minimum qualifications for ALNco's in the future and if yes,
4. How will the transitional period be managed to allow current SENco's to continue to work in the new role.
5. Will each school be in a position to ensure that sufficient resources are available to meet the new arrangements?
6. The new ALNco role will be more demanding, and have more responsibilities attached to it, in comparison with the previous SENco role. Will Welsh Government be in a position to ensure that this new

role is fully evaluated and grades allocated to staff consistently across Wales.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

X

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Jennie Hughes

Organisation (if applicable): Inclusion Service, Schools and Lifelong Learning, Cardiff Council - Cyngor Caerdydd, Education and Lifelong Learning

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
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	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input checked="" type="checkbox"/> X
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs?

In principle, it is agreed that the term SEN is now outdated and should be changed to reflect more inclusive language. However, the term ALN is already in common use in Wales, and is used to refer to all groups vulnerable to under achievement, including those with SEN. This definition was set out by Welsh Government in 2008, in the guidance document Inclusion and Pupil Support. To change the definition of this term, and adopt its use to refer only to pupils with SEN is likely to cause significant confusion. If the new definition is adopted, consideration will need to be given to the need to publicise the change and to revise a substantial amount of both local and national guidance that has been produced since 2008.

The term ‘Special Educational Provision’ is rarely if ever used. It is usual to talk about ‘provision’ or ‘provision for pupils with SEN’. It is not clear that there is any need for the term ‘Additional Learning Provision’.

Do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Cardiff Council supports the principle of a more coherent and consistent framework for all children and young people with SEN aged 0-25. However, the draft Bill does not yet provide sufficient clarity about responsibility for provision 0-3 and 16-25.

Children aged 0-3

Robust systems are already in place in Cardiff, for effective sharing of information regarding pupils aged 0-3 with complex needs, and for joint planning to support transition into nursery. Introduction of an IDP for pre-school children would be a positive step that would further strengthen the process.

Health professionals already use Team Around the Child and Team Around the Family meetings to plan and coordinate provision for pre school children with complex needs: it would be a relatively simple matter for them to develop IDPs as part of this process.

However, the responsibility for determining whether a pre-school child has ALN, for drawing up the plan and for making provision will properly lie with health services rather than education.

The draft Bill assigns responsibility to the local authority for drawing up IDPs for children 0-3 and provides for rights of appeal against the LA for this age group. This is unrealistic and has significant implications for local authority resources.

Young people aged 16-25

The process of transition at 16 or 18 can be challenging for young people with SEN, and for their families. The introduction of a more unified process, with common planning processes and terminology is to be welcomed.

However, the difficulties that can arise at this point of transition do not arise solely from the different support processes in schools and FE colleges. Social services apply different eligibility criteria from age 18, while health services are coordinated differently from 18. Despite the aim of a more unified and multi-agency approach, the Bill does not address this discrepancy. This puts local authority education departments at risk of becoming responsible for substantial additional costs for health and social care provision.

The explanatory note makes clear that it is not the intention that the new framework will result in more young people having access to specialist placement than at present. However, introducing a right of appeal at this point, without defining the responsibility for adult social care and for adult health services, will lead to increased demand and expectations. The draft Bill is therefore likely to extend the right to access independent specialist colleges to more young people. For example, those with Profound and Multiple Learning difficulties, who at present do not access education after the age of 19.

The Bill has the potential to promote more collaborative work between LAs, FEIs and social services, to improve the quality of provision for young people post-16. However, the FE sector does not yet have an infrastructure or a culture for providing a graduated response to SEN and this will take time to develop. To be effective, the sector will need to secure access to educational psychology and to qualified teaching advice for young people with sensory impairments. At present, the draft Bill does not set out a clear expectation that FEIs will assign resources to developing a graduated response and to securing the input of specialist services.

There will need to be clear criteria for placement in independent specialist colleges which should reflect:

- The evidenced educational needs of young people
- The need to make appropriate use of public funds: local provision should be favoured wherever this is available or can be developed

When funding for specialist college placements is transferred to LAs, it will need to be clearly hypothesised to ensure it transfers to education departments.

It is vital that the current system of Welsh Government registration and ESTYN monitoring of specialist colleges is maintained in order to maintain standards, safeguarding and consistency.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Cardiff welcomes the adoption of a Person Centred Planning approach and the requirement to ensure the views of children and young people are reflected in plans.

However, the proposed legal framework to support the new process is fundamentally flawed. The strengths of the current framework are that it sets out a well articulated 'graduated response', recognising that additional and specialist support should be proportionate to children's needs, and based in good whole school practice wherever possible. The current code of practice makes good use of the concept of 'adequate progress' to define the purpose of additional and specialist support. The emphasis is on ensuring children are enabled to achieve their potential.

It is a weakness of the draft Bill that the graduated response is abandoned, proposing that all ALN provision statutory and proposing rights of appeal from the very earliest stages. This suggests a lack of confidence in the professionalism, skills and capacity of mainstream schools, to appropriately identify and meet low level needs. It should be remembered that the majority of children with needs at 'school action' and even at 'school action plus', will not experience long term difficulties. Appropriate intervention and targeted support by schools will address their needs and ensure they are able to meet their learning potential.

To make provision at this level statutory runs the risk of introducing significant layers of bureaucracy, adding to the workload of SENCOs, without any particular benefit in terms of better outcomes.

There needs to be a clear 'read across' between the proposed ALN framework and the Social Services and Well-being Act. The connections and the need for consistent expectation for all agencies working with vulnerable children and young people do not appear to have been considered.

The current framework is at odds with the statutory requirements and code of practice for admissions. A new framework should take the opportunity to bring the two codes, responsibilities and provision for rights of appeal into alignment. This does not appear to have been considered.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The experience of many Cardiff schools is that the current approach to measuring ‘standards’ can be at odds with the goal of inclusion and improved outcomes for the most vulnerable learners.

An approach to standards which measures and values the progress of all learners, such as the approaches proposed in the Donaldson Report, would be an effective way to ensure high aspirations and better outcomes for learners with SEN.

The draft Bill reflects an over emphasis on statutory rights, rights of appeal and disagreement resolution, and places little emphasis on the role of school improvement planning and self evaluation to improve outcomes for all learners.

This approach tends to under-estimate the good practice that has already been achieved in schools through the pursuit of best inclusive practice and the drive to improve outcomes.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Responsibilities for health boards

The proposed responsibilities for health boards are no stronger than in the current legal framework. The draft Bill requires health boards to make provision ‘that they have agreed to’. The right of appeal continues to be against the local authority, and there is no provision for health boards to be held to account for failure to provide.

To be effective, the draft Bill needs to introduce a meaningful responsibility for health boards to make provision in line with the needs they have diagnosed. Where they fail to make provision in line with their assessments, children and young people should have a right of appeal against the local health board.

In Cardiff as in many local authorities, it has been found that close collaboration between education and health services can result in a more efficient and effective use of resources.. A meaningful statutory duty on health boards would help to promote collaboration, as well as ensuring the rights of children and young people are protected.

Respective roles and responsibilities of schools and local authorities

Cardiff council accepts that by making all ALN provision statutory, and by introducing Person Centred Planning as the main tool for planning, the draft Bill succeeds in reducing perceived inequities and will potentially reduce some of the bureaucracy of the current process.

However, by introducing a distinction between IDPs maintained by schools and IDPs maintained by local authorities, the draft Bill risks reinstating both the inequities and

the bureaucracy. This approach would reinforce that there are two tiers of IDP, just as there are two tiers in the current system.

Cardiff council anticipates that the local authority will be involved either directly or indirectly in all IDPs through the participation of educational psychologists, specialist and advisory teachers. LA involvement would be proportionate to the needs of the child or young person, and would also take account of the school's capacity to meet the child's needs.

If parents or the pupil feel that the LA is insufficiently engaged, or that the school is failing to identify and respond to needs, then they can employ their right of appeal against the provision in order to ensure the local authority engages more fully with the process.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There are too many grounds of appeal in the draft Bill, which could increase the potential for conflict and disagreement, and also for bureaucracy. At present, the majority of parents accept that low level needs can and should be met through effective school practice.

It is felt that introducing statutory rights for all learners with SEN/ ALN will tend to increase the potential for conflict as it reflects a lack of faith in the professionalism, skills and knowledge of schools to meet emerging needs through effective support at school level.

The graduated response and the lack of emphasis on the concept of 'adequate progress' runs the risk that the proposed framework will raise expectations at a time when resources are already under pressure. Statutory rights need to be balanced by realistic expectations and a sense of proportionality. At present, this is absent from the draft Bill and the draft Code.

Cardiff supports the idea of a new responsibility to provide information. This will help to ensure that parents and children are well informed about the support available in their area and who to contact for advice and support.

It is felt that there should be an obligation on all parties to engage in mediation and/or disagreement resolution before resorting to a right of appeal. Local experience is that most cases where the local authority and parents do not agree, can be resolved through discussion, without recourse to the Tribunal. The majority of parents engage

well in this process. However, there are a small number of parents who actively choose to pursue an appeal and who resist attempts to engage in discussions. This can lead to significant public expenditure on a legal process that might have been avoided.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Role of the ALNCO

Cardiff welcomes the description of the ALNCO role set out in the draft Code. The ALNCO role includes significant new responsibilities in comparison with the existing SENCO role. It is therefore appropriate that post holders should hold a recognised qualification and be members of the senior leadership team of the school.

However, the Code is based on the assumption that each school will be working in isolation and will each need a separate ALNCO. In the current financial climate, there is a growing need for schools to consider working in partnership, sharing resources and expertise. Consideration could be given to allowing schools to employ a shared ALNCO, working across a group of schools.

The draft Code refers to the need for ALNCOS to ‘have a say’ in the deployment of learning support assistants. This expectation could be strengthened to refer to the deployment and management of the ALN budget. The requirement for local authorities to delegate a higher proportion of the education budget to schools, has lead to the delegation of SEN budgets and resources to schools in most local authority areas. Continued good management of these budgets will require ALNCos to take a more significant role in the management and deployment of these resources.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

This consultation response has 'disagreed' with all the questions set out above. However, there is no disagreement with the principles and goals set out by the Welsh government in relation to the proposed reform.

It is felt that more work is needed to ensure the draft Bill retains the strongest elements of the current framework, such as the graduated response, and the concept of 'adequate progress'.

Some of the weakest elements of the current framework, such as the lack of any meaningful statutory duty for Health Boards has not yet been addressed.

The extension of statutory rights to all children and young people with SEN/ALN places too much emphasis on rights, with insufficient emphasis on proportionality, effective use of public monies and realistic expectations to balance this.

Placing Person Centred Planning at the heart of the new processes is a strength of the proposed framework, although the training and resources required to implement this properly should not be under estimated.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name:

Organisation (if applicable): All Wales Forum of
Parents and Carers of People with Learning Disabilities

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
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CF10 3NQ

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	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
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Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

It is commendable that the intention is to offer support to as broad a range of needs as possible. However if the term ALN caters for pupils beyond that of the current SEN eligibility criteria then I have concerns over the dilution of schools abilities to cope without additional funding/resources.

This concern is compounded greatly by the 0-25 age range. Again highly commendable and indeed the right thing to do, but if the additional funding/resources are not forth coming my fear is that the WG will only succeed in raising the expectations of pupils/families when actually severely diluting much needed support to an even greater range of pupils.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I agree in principle to this fact. The fact that there is a legal framework is vitally important but pupils/families must have a very clear understanding of what services have been agreed, time frames involved and who is responsible for what. The actual practise of professionals being available to attend what may become a large number of meetings/reviews is in question. This could greatly delay the process and cause unfulfilled promises and commitments between various stakeholders. While Health and Social Care ‘agreed provision’ may sound good without shared budgets there is always a concern about the funding of ‘agreed responsibilities’. In addition there is now the additional possibility of agreements between school and LA’s about support provision. All the above resulting in a lack of clarity.

While the WG can proudly state that legal protection is there in practise it is not. As

one parent stated, the ability to have legal recourse is a double edged sword, the vast majority of pupils/families will have neither the time nor the energy to pursue such action or possibly lack the intellectual confidence to do so. The need for an advocacy service with the necessary specialist knowledge would be of the utmost importance to pupils/families if the WG are serious about the legal framework protection.

(Fighting any legal action/tribunal could have a big impact on LA budgets.)

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree

Disagree

Neither agree nor disagree

Supporting comments

Having children and young people at the centre of the Bill is a big step in the right direction and again is to be commended.

The Bill appears to be outcome based which is again a big step in the right direction. This will mean constant review of performance within given time frames. The need for updating of the outcomes to further challenge, stimulate and improve performance if met or the need to identify, understand and find alternative solutions if not. This could take up time and resources, concerns raised above.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree

Disagree

Neither agree nor disagree

Supporting comments

The need for a holistic approach is acknowledged and the Bill attempts to ensure this will be the case. There may be conflict between School Governors and LA's about support provision responsibility yet alone various stakeholders. Professionals around the table may not have the budget authority and agreed provision could fail when 'taken back' to individual stakeholder budget holders. At a time of diminishing resources well intentioned promises of provision that never arrive are damaging to the process, relationships and of course pupils. Consequently accurate knowledge of what can be realistically provided is a must. This may be difficult for those around the table to achieve. (Or lead to reduced provision by individuals erring on the side of safety.) LA's are already concerned about agreements with schools over provision responsibility, already mentioned. In addition they appear worried about FE colleges

who seem to be able to ask for provision from LA's who LA's have no ability to monitor the provision.

Transition has been a problem and could remain so under the Bill.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

As indicated above, the fact that pupils/families have a legal framework upon which to challenge is in itself not enough. This route is also very time consuming, expensive and emotionally draining for all concerned while often leaving the pupil/family concerns stagnating during the lengthy process.

WG are again to be commended for looking to support early resolution which, if achieved, is a win, win for all involved. However the need for pupils/families to have quick access to educational advocates is crucial to the success of this aim. There appears little in the Bill to ensure such support will be made available by LA's. I also wish to stress that an advocacy service with 'specialist knowledge' is important, particularly if early resolution fails.

Concerns have been raised about pupils/families moving across Wales and there appears to be a strong call for standardisation, which would negate problems when this happens. (Agreed provision must be available across the country so IDP's are portable between schools/LA's.)

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The fact that the child/young person is strongly emphasised throughout is excellent and holistic approaches are very welcome indeed.

Meeting the needs of children/young people in mainstream school is clearly stated and again seen as a good thing on the whole. However where this cannot be done LA's should be seeking to meet needs in a specialised setting

within county. (This is not so in Ceredigion.)

The fact that Tribunals can hear issues from Social Care as well as Health on 'Agreed Provision' is also an important improvement.

WG have produced a number of well-intentioned, well written, good policies/guidance over the years. Unfortunately they appear to be left on a shelf to gather dust in LA offices across the county. LA's seem to lack the same motivation be that for resource/funding issues or whatever. For this Bill to work they must ensure clarity throughout so LA's, pupils/families have a clear understanding of exactly what should and should not be done for children/young people 0-25 years. (E.g. Clarity around moving schools/LA's = standardisation.) LA's need to be taken to account if they fail in their duties to provide the support the WG so rightly aim to provide. WG have a responsibility to ensure this. They should not abdicate that responsibility by leaving it to pupils/families through an appeals process. WG should ensure proper specialist advocacy is readily available to help with avoiding disagreements and to achieve the early resolutions which are in the best interests of all. Pupils/families will also need this to understand the 'clear and consistent' rights of appeal. This needs to be made clear in the Bill and LA's need to be aware that pupils/families have this support. (If only to improve their motivation to see the WG aims in this Bill are met.)

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We also include below the summary of response to ALN Consultation 2014 which is also relevant;

The following details our response to the white paper which outlined the proposals to introduce a new legislative framework for supporting children and young people with additional learning needs (ALN consultation).

Formal overview comments from the Chair on behalf of the All Wales Forum of Parents and Carers network.

In relation to the ALN Consultation; I have read the proposal pretty thoroughly and while I agree with much of it in principle, I think it is short on process: We have consistently heard over the years about the need for team collaboration, inter-agency working, the sharing of important information around a child/young person, but systems and culture impede and make life very trying for families who frequently find themselves having to join up the dots! I hope process will be given more focus and greater consideration within the Guidelines.

I am mindful that the 'statementing' process as it stands has not always worked well. It has worked – but only for those lucky enough to be given a statement, and even

then families have had sometimes to go to inordinate lengths to take the LA to task to get services outlined in the Statement as a need that should be met and services delivered. It costs time, money and emotional energy that is often exhausting for families. (And LA's have successfully fought actions because they simply don't have the resources! And this has sometimes led to expensive and sometimes poor quality out of county/country placements – but that is another story!) I personally prefer the notion that EARLY identification, that does NOT rely on diagnosis (often a lengthy and inconclusive process) triggering off an IDP for children with special needs is preferable. My only concern is that families need to know where to go to get such an identification, where their concerns will be sympathetically and practically heeded. There are far fewer Health visitors these days, and they have large case loads. GPs are busy, and often pretty ignorant of many of the developmental concerns facing families with small children, and if the new school SENCo- or ALNCo, is to be a significant help to families in identifying additional needs, then their training needs to consist of more than the ONE module that is being mooted for the new teaching Master's Degree! Having said all of this, I am conscious of the wider carer networks concern over the change of systems, and I do support some process details that ensure families are well informed and properly supported to enable the children to get the formal support and recognition they need. This is something that will need to be fleshed out following the consultation, and should include families in the process.

I agree with other carer representatives that Special School provision for children and young people with more complex needs should be vigorously maintained – but I also think that these schools should have greater practical links with mainstream schools, so that there is opportunity for crossover – certainly socially, so that there is a level of integration for pupils, and also a sort of bi-lateral learning opportunity, with teachers in both Special units and mainstream schools occasionally working in both, sharing expertise, and encouraging aspiration. As Chair of governors of a Special School for over 16 years, I felt that there were times when the 'cosy' protective atmosphere occasionally blunted educational aspiration, while the creative communication expertise, for example, of many of those teachers would have been invaluable in some mainstream schools. The principles outlined in the proposals are good and based on person-centred values which should be enshrined in all policy and practice, and I applaud the determination to focus on an outcomes based approach to service planning and delivery. As with most proposals of this kind, the devil is in the detail: I believe that there should be a statutory obligation for interagency collaboration and that the forthcoming guidelines should outline the process for achieving that, with the emphasis on the family at the centre.

Finally, I have a query about 'independent advocacy' – especially in the case of disputes with families and the LA provider. The advocate needs to be truly independent – who would they engage to provide this service? For parents to be happy and secure in relinquishing the Statement process (which, of course did give them some power and a final recourse to legislation) they need to be confident that, in the case of dispute, there will be an absolutely independent advocate whose advice they could trust. This again needs to be fleshed out in the detail and should be discussed with families and other relevant stakeholders before being set in stone. Equally, this whole process should have some regard to other larger policies such as the Social Services and Well-being Act, which will have some impact on the children and families we are discussing.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

**Consultation
response form**

Your name: Mary van den Heuvel

Organisation (if applicable): ATL Cymru – the education union

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input checked="" type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

About ATL Cymru – the education union

The Association of Teachers and Lecturers represents over 160,000 education professionals across the four constituent parts of the United Kingdom. It draws its membership from teachers and lecturers, leaders and support staff in maintained and independent schools, and Further Education Colleges. As well as campaigning vigorously to protect and enhance members' pay and conditions ATL also believes that the education profession has a key role in developing education strategy and policy. ATL Cymru represents over 6,500 education professionals in colleges and schools across the whole of Wales.

Our response

We welcome the opportunity to respond to this consultation. We are especially encouraged that the consultation is on the Bill in draft form. We believe this is the opportunity to address some serious issues with the draft bill, which is unworkable in its current form.

We have had a serious response from our members, who have expressed strong concerns about the draft Bill.

We remain fundamentally concerned about a draft Bill which has been described by the Education Minister on the 16th November 2015 as both 'a radical and ambitious new system'¹ and "not radically different" for those who have additional learning needs. We therefore seek clarity on many issues which this draft creates, both for children and young people with ALN and the education professionals whom we represent.

Survey results

We undertook a survey of our members to inform our response². The findings from the survey are included within our response as appropriate.

Respondents included those working in a range of settings – from class teachers to current ALNCos, headteachers to teaching assistants and those who manage specialist residential provision.

More than a third (37%) of those who responded to the question had management responsibilities. Their responsibilities ranged from one teaching assistant to 20 teaching staff and 92 non-teaching staff.

Our main concerns with the draft Bill are outlined below:

¹ <http://gov.wales/about/cabinet/cabinetstatements/2015/10705926/?lang=en>

² Survey of ATL Cymru members ran from 3rd to 15th December 2015.

Funding

The funding arrangements for this draft Bill remain unclear. If the aim of this Bill is to save money then that must be made clear and explicit. If the Bill aims to improve the system, as implied, that will take resources. These resources have not been adequately identified. We would have grave concerns about the budget constraints which schools and FEIs can expect in relation to this Bill.

Indeed, we believe the main problem which underpins the current system is resources, rather than the structures in place. The draft Bill appears to create a system in which those with 'severe and complex' ALN will have a safeguard in terms of the local authority.

However, those with lower level additional learning needs (ALN) will have their additional learning provision (ALP) met by the school/ FEI etc. If there isn't enough money currently in the system, or enough professionals like speech and language therapists and education psychologists, then simply passing the responsibilities onto governors and the costs onto school budgets will not work.

ALNCos

Nearly two thirds of those who answered our survey (58%) felt that the duties prescribed in the draft code for ALNCos are unworkable. ALNCos are extremely unlikely to be given the amount of training, time and support in order to achieve the requirements placed on them within the legislation. Many do not have extra pay for their extensive role either.

Comments from our survey suggest that the described list could work if it were for a whole ALN team in a large school or college, in which many were non-teaching staff. There were also concerns that senior leadership positions would be difficult to assign to ALN.

One member said:

"I would see this role as a full time position in itself. This list of responsibilities would be better taken on board by a designated ALN department that may be made up of several members of teaching staff."

Another said:

"It's a wish list, which may fully represent the challenges of the role but who would be able to fulfil this within the terms of employment? Recruitment and retention will be challenging. Many schools rotate the SENCO role without appropriate qualifications of the post holder"

Not all ALNCos are currently a member of the senior management team, and whilst this is welcomed in principle, it will take time and support from the school and governors. More than two thirds (68%) of our respondents said that they needed more time and support to undertake their ALN role.

We broke this down further within our survey, and found that half (49%) of respondents needed more time outside the classroom to undertake their ALN role to a standard they would like. 70% said they would like more training, whilst 34% said they would like more support from management.

Three quarters (73%) of our survey respondents said it would take more time to undertake the role as described in the draft Code.

Some people may face a restructure of the staff in their school and some will have to have more training to ensure they have the right qualifications. Nearly three quarters (71%) said they would like more training to undertake their ALN role to a standard they would like, whilst more than a quarter (27%) would like specific qualifications. A third (34%) would like more support from management.

We found some of our respondents were not a qualified teacher, member of the senior leadership team, experienced working with SEN/ALN children and young people or qualified specifically to work with SEN/ALN, but have the SENCo/ALNCo role. These people were working within the early years, primary and FEI settings.

More than three quarters (77%) of the current ALNCos who answered our survey said they had experience working with ALN children and young people, whilst only a third (33%) had specific qualifications.

As it stands, the ‘offer’ in terms of the ‘New Deal’ does not meet the needs for re-training required under the Code in this draft Bill.

Substantial monies will have to be allocated from Welsh Government in order for this draft Bill to work.

Governing Bodies

Whilst we do believe that the draft Bill could allow governing bodies the responsiveness to react to lower level needs, we are concerned about the duties placed upon governing bodies within this draft Bill. Governing bodies are made up of people with a range of expertise who volunteer

their time. Indeed, most of our members (83%) were concerned that governing bodies would not have the expertise to identify and support children with ALN.

This draft Bill shifts the responsibility for children with additional learning needs from local authorities (LAs) onto schools. This could be helpful for lower levels of ALP, where a governing body, given the right resources, could act in a more timely and responsive fashion.

However, it is therefore important that governing bodies are properly equipped with the support, finances and expertise to identify and meet the needs of those with additional needs within schools. We do not believe that this is currently the picture in Wales.

Specialist Provision

During a statement and the evidence session with the Children, Young People and Education Committee on the 26th November, the Education Minister, Huw Lewis AM, indicated that the ‘New Deal’ for training will mean all teachers will be able to teach a fully “inclusive”³ curriculum and that there will be less of a need for specialist learning provision.

Huw Lewis told the CYPE Committee:

“I think there’s also a crying need, to my mind, taking things up the age range a little, for speech and language therapy to be, to an extent, part of the menu of skills that more and more teachers are able to develop and that’s something, particularly through the new deal and the developments around initial teacher education and training, I’ve asked officials to take a look at how we can upskill teachers, so that there is more awareness and more capacity within schools in order to be able to meet some of these needs. But—. Well, the committee will take this as the committee wants to take it.”⁴

Whilst we agree that there needs to be an ‘upskilling’ of the workforce in order to meet the needs of this Bill, we would be concerned about the expectation that teachers take on the roles of other professionals. Of course some teachers undertake speech and language tasks, particularly under the advice of Speech and Language Therapists.

However, teaching is already a profession in itself. We would not expect GPs to undertake complicated procedures. Similarly, we want to see a

³ <http://gov.wales/about/cabinet/cabinetstatements/2015/10279462/?lang=en>

⁴ <http://www.senedd.assembly.wales/documents/s46943/26%20November.html?CT=2>

Wales where our teachers are supported by other trained specialists to ensure that children and young people receive the right support in order to fulfil their potential.

Section 29: Favouring mainstream schools

Whilst we can see the principle behind favouring mainstream schools, we have concerns with regard to how the draft Bill works in terms of favouring mainstream education.

Whilst it is welcomed that the parents would have a say about the mainstream education of a child, the child's own "views, wishes and feelings" – and the best place to meet their ALN - are missing from the draft Bill. The Bill should also consider the needs of the child or young person with additional learning needs.

Indeed, more than half (56%) of those members who responded to our survey felt that a mainstream setting will not generally help children with ALN – although many pointed out it depends on the individual child.

There needs to be great clarity surrounding admission arrangements when a school has been named in a child's Individual Development Plan (IDP).

The New Deal

As mentioned within the ALNCo section (above) we remain concerned as to how the so-called 'New Deal' for the education profession will mean that all teachers are 'upskilled' to teach a fully 'inclusive' curriculum.

In the same way that the Code places unworkable responsibilities onto the ALNCo, we believe that the proposed changes for class teachers could mean a lack of support for children and young people with ALN. It is not acceptable to expect teachers to be able to meet the needs of all children with ALN through differentiation of teaching methods.

Only a quarter (25%) had specific qualifications linked to their ALN work at the moment – most at a post graduate level. However, who is going to fund and support the rest of the workforce sufficiently to take on extra responsibilities for ALN, let alone an ALNCo role? We would ask Welsh Government to make their plans clear.

Although three quarters (75%) of those who answered our survey said new qualifications would be helpful, with specific asks for CPD modules, dyslexia training and extra training in how to support children and young

people with visual and hearing difficulties. Concerns about how the cost would be met were raised, as well as time constraints. One member commented: “we don't have the time for extra formal qualifications”.

Whilst we broadly welcome increased support for the profession, we also believe there is a limit to the amount of support a teacher or lecturer can offer each individual. The “upskilling” of the workforce must not mean a reduction in individual support and funding for a child or young person with ALN.

Assessment

Whilst there is indication that the local authority or governing body will have made an assessment of a need for ALP for a child with ALN, it is unclear what the assessment will look like.

The Bill indicates the ‘views, wishes and feelings’ of a child will be taken into account, which is welcome.

However, the assessment process remains unclear. With no duty on health and an increased responsibility for governing bodies, greater clarity is needed.

Where a child or young person’s ALN is “severe and complex” the local authority will have responsibility. However, who decides that the ALN is severe and complex and how they do that remains unclear and could cause issues in terms of funding arrangements, especially for governing bodies.

All (100%) of members who responded to the survey felt that there could be a problem if “severe and complex” needs are not properly defined. They noted that the lack of clarity could raise a series of issues and potential legal cases.

There was concern an assessment could be carried out by the ‘cheapest’ person, rather than the person who can best assess the needs of the child. One respondent to our survey noted: “It needs to be completely unbiased as if completed by an LA person.”

Greater clarity is needed to ensure the assessment is a clear, needs and outcomes focused process.

The IDP

The Code lacks clarity surrounding the nature of the IDP. Whilst we welcome the proposals to make the plan statutory for all those with ALN,

the nature of the plan lacks clarity. Working on the assumption it is an annually reviewed document it will be resource heavy to create, but could also cause problems in terms of the time of year it is reviewed.

Ideally a child or young person with ALN will need to set their ALP during the first term of each school year – which would be a relatively fluid document which can change when all agree. However, this will be unworkable in large education institutions.

Four fifths of respondents said that gaining a ‘statement’ or legally enforceable document had become more difficult in recent years. And a similar number (81%) felt the IDP could help. However, respondents also raised serious concerns about timing and resources.

One member responding to the survey questioned whether the annual review is an improvement as they noted: “All our pupils on the SEN register have 2 individual education plans a year”.

More than nine out of ten (93%) would favour a template for the IDP in order to create greater consistency across Wales and also to create a document which is portable across LA and LHB boundaries. We were heartened to hear the Education Minister is considering a template for the IDP.

As he said to the Children, Young People and Education Committee:

“I do accept, actually, that there are issues, particularly around issues like portability, that make the idea of a template really quite an attractive one, in terms of making sure that we don’t have disconnects if children are moving around the system, as they do, of course.”⁵

The template must ensure that the IDP is carried out in a consistent fashion, is needs and outcomes focused, and has safeguards to make sure ALP is provided in a timely fashion.

Transition

Transition arrangements remain unclear. For those facing transition between educational institutions the Bill remains unclear. Will the current statutory review and transition plans remain in place? They appear only in terms of vague principles in the Code.

⁵ <http://www.senedd.assembly.wales/documents/s46943/26%20November.html?CT=2>

Will there be a clear expectation for the child or young person to attend a meeting with the next school or college before they attend, or will that institution attend a review meeting in the lead up to transition?

There needs to be clear guidance around transition including expectations of the current/next education institution. These need to be workable for the ALNCo and any staff involved, and timely for the child or young person, in order that any issues around transition are addressed and changing needs met.

Will there be a final IDP for those reaching the age of 25? More clarity about this is needed to ensure that young people get the right support as they reach 25.

Transport

Transport arrangements also remain unclear. The duty for local authorities to provide transport could be considered as part of the arrangements made under the IDP – with a duty placed on local authorities to meet the needs for travel for learners with an IDP. We would also seek clarity on whether this Bill will repeal the current law set in the Learner Transport (Wales) Measure?

Health and Collaborative working

We would welcome a duty specifically placed on health boards and health professionals to assist with the process of assessing a child or young person in terms of ALN and the ALP they will need.

In our survey, four-fifths of members who responded to our survey (84%) said that health was not involved enough in drawing up plans at the moment. Almost everyone (95%) said that a duty should be placed on health to make them take part in drawing up plans for children and young people.

Information sharing – if not coordinated by the local authority – should be undertaken with support from the regional consortia – who will be able to assist schools/ FEIs in terms of expertise.

We do recognise there are challenges with the current system. We do acknowledge there can be problems with the current system. For example, using multi-disciplinary teams, where LA and LHB boundaries don't meet, can be a challenge.

There are examples of good working, where schools are working with local services such as CAMHS, speech and language therapy, occupational therapy and Paediatricians.

One response to our survey summed up:

"It is so important to keep channels of communication open between all interested/concerned parties. Delays in getting answers can prove a great frustration."

We would also have expectations that collaboration includes information sharing between other agencies such as those involved in the youth justice system and pupil referral units (PRUs).

Further Education Institutions

There are a series of issues which are specific too, or more concerning in further education institutions (FEIs), where student populations are large and funding is under severe pressure. Young people also have specific issues as they transition from a more structured school setting and move towards independent learning arrangements.

FEIs are a corporate body and greater clarity is therefore needed on whether the Bill will mean greater collaboration between local authorities and FEIs. This should include clear transition arrangements as well as clarity on how the FEI will seek consent from individual students and how the local authority and school can share information with the FEI to ensure that any ALN are met.

There is a need for FEIs to be supported in being able to comply and a clear phased transition period to allow for capacity, additional duties and monitoring and creating and establishing procedures to be put in place.

We have described in detail some issues below which though not specific to FEI, are particularly relevant to them:

Qualifications and CPD

The 'New Deal' for the education workforce needs clarity around how it will work in an FEI setting. It is likely the ALNCo in an FEI is not a qualified teacher at present; therefore it is unclear whether they will be able to remain in their role without the qualification.

The reform to Initial Teacher Training must also include the FE sector.

CPD in terms of the New Deal is focused primarily on school teachers. Greater resource is needed to ensure that the New Deal – whatever that looks like – is extended to those working in FEIs.

Complaints and Tribunals

Under the Bill, young people are expected to make their own representations in order to challenge their IDP or ALP. We believe this places an unacceptable burden on young people with ALN. They should be able to choose who represents them.

The Tribunal system in general needs more clarity.

Specialist residential placements

Currently arrangements are in place which make decisions about whether a young person with ALN is able to attend a specialist residential placement more consistent across Wales.

Specialist provision or mainstream schooling decision should be based on what is best for the child or young person and represent their “views, wishes and feelings”.

As one respondent to our survey said:

*“If [a mainstream setting is] adequately staffed some will benefit.
Some will always need alternative provision and expertise.”*

We believe that the current decision making process – decided by Welsh Government – is preferable to individual local authorities making this type of decision. We would also have concerns that the way the Bill is worded in terms of favouring mainstream placements, could prevent children and young people accessing such specialist support.

Work based learning

Greater clarity is needed on how students accessing work based learning support are to have their ALN met. Whilst apprenticeships are specifically excluded from the Bill, FEIs still need to meet the ALN of children and young people who are attending their college. This seems to need greater clarity about what ALP should be provided and how it will be funded.

Age range

We have concerns that instead of being education focused the Bill is only for those under 25. Many learners within FEIs are over 25 and some have specific funding arrangements. Will these continue? We would prefer that the Bill was education focused, rather than limited by age.

Additional learning needs are not age specific so neither should the support be.

Members in the FEI sector were concerned about the implication within the Bill – or a possible misunderstanding of it by children, young people and parents – that all learners with ALN would be able to access further education up to the age of 25. FEIs cannot guarantee this.

Qualifications

The Code and Bill do not make any provisions about qualifications. Currently there are issues surrounding expectations of the Joint Qualifications Council, which require specific assessment for access requirements in exams. These are often an unnecessary duplication of existing assessments of young people with ALN. We would seek clarity on how the legislation could improve these arrangements and extend the information sharing to ensure great collaboration between organisations.

The England situation

We note that reform to ALN/ SEN provision in England is largely in place and feel the Welsh Government should take this opportunity to learn some lessons from the situation for those involved there.

In England there it is clear that the legal duty sits with the local authority, not with the school as it appears in Wales.

The IDP (or EHCP as it is called in England) can act as a barrier. Although it is positive that the Plan in England is more outcome focused than the proposals for Wales, it has become a data-driven process, which means schools are spending time justifying what they are doing. There are also challenges for children and young people moving between provision. Some educational institutions can claim they cannot meet the needs of the child and therefore they can be forced to go elsewhere.

Although there is implicitly a stronger expectation for health to be involved as the Plan is an Education and Health Care Plan, health inclusion is not uniform. Each EHCP is costing around £3,000 to create. With only £6,000 allocated per child with additional needs, creating the Plan is using a disproportionate amount of the money.

SENCos in England have an unmanageable workload with the usual expectation is that they are the 'key worker' liaising between the family and all agencies involved.

There have been no checks and balances built into the system. In England the CQC and Ofsted are joining forces to inspect the system.

Many local authorities are using the opportunity to review the EHCP as a chance to make cost savings, especially in terms of school transport, which is considered non-statutory provision.

Wales has the opportunity to learn from how the system in England is working and not working, and learn from their changes to ensure that children and young people with ALN in Wales are fully supported to fulfil their potential.

Consultation questions

We have answered the consultation below, though note should be made of our points above.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The definition of ALN and ALP appear on the surface to be straightforward. However, the need for a 'severe and complex' ALN in order to be considered by a LA is bound to give rise to confusion and conflict.

Greater clarity is also needed to define exactly what is meant by "significantly greater difficulty". There is a risk without any clear definitions and guidance for these terms that schools, LA's and FEIs will be interpreting these differently.

Over four-fifths (84%) of respondents thought the definition would help children and young people to gain access to the right support. However, there were serious concerns.

We are concerned that the definition of 'severe and complex' will be resource led, rather than depend on the needs of the child or young person. We note there are issues with the current system – indeed more than four fifths (86%) of respondents felt that obtaining a statement of special needs has become more difficult over the last few years.

School Action, School Action Plus and Statements are currently three levels which attract different levels of funding. Statements are increasingly difficult to obtain and are the only legally enforceable level. However, as drafted, the draft Bill does not address all of these issues.

Although it is claimed this is the end to a 'three-tiered' system, in favour of a graduated one, we would be concerned that those who are considered to have 'severe and complex' ALN will be treated differently to those without. Thus it is hard to see how the new system will improve the situation of the old one.

Age range

Nearly three quarters (73%) of our survey respondents felt that it was an improvement to use the same system for 0-25 year olds. However, concerns were raised about the wording of the draft Bill, including the lack of join up with health.

Particularly within an FEI setting, it is difficult to see why there is a cut off at the age of 25. People do not stop having ALN at 25. FEIs are also unable to provide study to everyone up to the age of 25 – the Bill could lead to misunderstanding about this.

We would seek clarity on the expectations for those attending FEIs in particular, with high levels of people having additional learning needs over 25 and those within Work Based Learning (WBL) including apprenticeships.

HE

Higher education is largely missing from the Bill. Whilst the Bill claims to be for those up to the age of 25, it is unclear why it does not include provision for those in higher education. Therefore it is not a single, consistent process.

Whilst the Disabled Student's Allowance currently caters for those in HE, there is no clear reason why those in HE in Wales are not included within the provision of the Bill.

Greater clarity is needed on the roles and responsibilities for FE and HE in terms of transition arrangements.

Early Years

Provision for those in the early years age range lacks clarity and needs more of a focus. The definition does not appear to include those who are not of school age and it is therefore difficult to interpret for those in early years settings, such as nurseries.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst the Bill does provide a legal framework, we would have concerns that the framework is not robust, as no definition of 'severe and complex' ALN is offered. We would expect a series of comprehensive examples, leaving everyone in no doubt who has the duty to assess a child's ALN and complete the IDP and ALP.

As mentioned above, all (100%) of members who responded to the survey felt that there could be a problem if "severe and complex" needs are not properly defined. They noted that the lack of clarity could raise a series of issues and potential legal cases.

Members offered a range of suggestions for how to define 'severe and complex' needs – including asking for a series of examples be set out in the Code, which we would welcome. Although we recognise that professionals should be able to make a judgement, this should be needs and outcomes focused, not resource led.

The current system can be process heavy – immediate interventions are limited by resources and it is a system led process.

We have outlined our issues with assessment and the IDP etc above, and feel that as drafted the Bill does not address the issues of the current system.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst we note that the ‘views, wishes and feelings’ of children and young people must be recognised under the Bill, we would have concerns that this does not go far enough in terms of ensuring the child or young person is enabled to fulfil their potential.

We feel there is a distinct lack of detail surrounding the ‘outcomes’ for children and young people with ALN, and how these will be set.

We would be keen to have included some kind of template for this within the IDP. We would also note with caution the issues which this has caused within the English system. The system in Wales must allow children and young people to set aspirational outcomes, whilst supporting the education setting to assist them to be achievable.

Indeed, we would emphasise that any assessment of the child or young person’s ALN and the ALP they will need is outcomes and needs led, not curtailed by resource implications.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst we agree the Bill could provide some improved collaboration we are disappointed that health has a minimal role within the Bill. We believe health should have a clear duty in assisting with the IDP and assessment of a child or young person's ALN and ALP need.

We would seek clarity of the role local authorities are expected to undertake in relation to the FE sector.

We would also reiterate the issue relating to the lack of definition for those children and young people with or indeed without "severe and complex" ALN. This really could lead to a threshold system which is resource rather than needs led. The local authority needs to have a role in supporting schools to provide suitable ALP – not simply as the enforcer.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Tribunal system lacks clarity – with the role of the local authority appearing to be that of the ALP enforcer, rather than supporting schools with training and resources to help them provide the ALP as set out by the IDP.

We believe the current system doesn't work well and is inconsistent.

As one respondent to our survey said of the Tribunal system:
"[It is] too complex, bureaucratic and often beyond the means and understanding of parents/carers/ representatives of the young people"

Nine out of ten (90%) of respondents thought an equitable right of appeal a good thing. However, more clarity is needed about how it will work. Respondents of our survey also asked how staff could challenge the findings of the IDP.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We have made extensive reference to the Code within this response.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Timescales

Whilst the principle of ‘timeliness’ is within the Code, no clear indication of what this means is given. Clarity is needed on this to assist all involved in assessing ALN and providing ALP – as well as for the child or young person.

Other legislation

The implications of the Social Services and Well-being (Wales) Act need to be fully understood. This Bill should consider whether that Act gives sufficient means for a LA to identify a child with ALN – and if not it should be ensured that this happens. Children with a disability will no longer be considered Children in Need (CIN).

Collaborative working is critical to ensure that children are identified as early as possible and information is shared with the right people. Checks and balances must also be built into the system to ensure it is working.

A full list of repeals and amendments to other legislation is critical.

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Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: John Davies, Head of Education

Organisation (if applicable):

Wrexham County Borough Council (with contributions from the Education Inclusion Team, SENCo Forum and Educational Psychology Service).

e-mail/telephone number:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:
e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input checked="" type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The definition of ALN is appropriate and preferable to SEN. Whilst it replicates the current definition, which is appropriate, there needs to be clarity on what 'significantly greater difficulty' is, otherwise it is open to interpretation.

The definition of ALP is also appropriate but it will be useful to provide guidance on ALP and the range of forms it can take.

There needs to be national criteria with an emphasis on a graduated response based on a 'plan-do-review' cycle. If this is not provided it will be too easy for schools and parents to refer to the LA to determine whether the pupil has ALN. This will increase the responsibility of the LA and would result in serious capacity and funding implications, which is a concern in the current and future financial climate of reduced LA budgets. Without criteria written into the ALN Code of Practice the definition will also be open to interpretation.

The extended age range of 0-25 in principle is agreeable as it would provide a seamless provision with education and social care services working closely together. However, as stated above it would extend LAs caseload which would be a strain on capacity and funding therefore, it is unrealistic to consider this be to cost neutral. Any changes must be costed and financed appropriately. Therefore, the needs of children and young people would not be met.

The inclusion of FEI whilst is welcome may present a training implication as current knowledge in FEI settings seem to be limited and the current focus is on financial procurement.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill in its current form does not provide a robust legal framework for the preparation, maintenance and review of IDPs.

Unless there is a robust criteria and graduated approach which clearly sets out guidance for schools and parents to identify which pupils have ALN, there will be capacity pressures on the LA. If the definition of ALN, ie 'significantly greater difficulty' is to be adhered to there needs to be clarity of what this means. The term 'likely to have ALN' is not strong enough. This is open to interpretation. There are no performance measures.

The impact of reduced school and LA budgets need to be taken into account. It is likely that the LA will have an increase in referrals requesting that the LA makes the decision that the schools are unable or 'do not have the capacity' to make a decision on whether a pupil has ALN or cannot offer provision to meet the needs. The evidence gathered by schools over time should determine whether the pupil has ALN and not the LA. The increase in referrals to the LA is likely to result in an increase in appeals to the Education Tribunal. This has implications for the LA.

It is positive there is increased participation by children and young people. There needs to be consideration of the need to alert **all** children and young people and how to gain consent of **all** children and young people. It needs to be meaningful.

It is a positive development that the IDP must be copied for the child and parents. There needs to be detailed guidance to ensure that the paperwork reflects the communication that has taken place previously between the school staff and the young person and their family.

10 weeks to make a decision on whether a pupil needs an IDP is appropriate. However, there does not seem to be a timeframe to write and finalise an IDP. If an IDP can be written without reports and updated late on receipt, how can provision therefore, be identified or quantified? This also needs to be considered for children under school age as the LA has 7 weeks to write an IDP but may not have information from agencies or educational provision which may be meaningless as ALP cannot be identified.

This framework does not ensure any statutory constraints on the involvement and responsibility of Local Health Trusts. The Education Tribunal for Wales will have no jurisdiction over the Health Trusts and therefore, the LA may need to fund specialist health provision or the needs of the pupil will not be met.

It is a positive proposal to coordinate all plans a child or young person may be in receipt of.

It is also positive to include the transport policy in the ALN Code of Practice. Consideration needs to be made on the proposal for transport officers to attend pupil review meetings which will impact on LA capacity. If LA are to be responsible for IDPs up to 25 transport costs need to be factored in and aligned with post 16 establishments transport provision and costs.

It is appropriate for the 12 month review cycle to be maintained and that young children need more frequent reviewing, ie every 6 months. School/FEI should be responsible for arranging and coordinating review meetings and not the LA as indicated.

The suggestion that an IDP can be reinstated at short notice will have an affect on provision and budget. There needs to be criteria to base evidence on.
'Sufficient time' and 'short notice' needs clarifying.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree

Disagree

Neither agree nor disagree

Supporting comments

The draft Bill promotes the interests of children and young people. The PCP format strengthens a child centred approach which is welcome and it is vital that children and young people's views are considered. It is particularly relevant for those children and young people with BESD. PCP as a process of improving the pupil and family involvement in a person centred approach is effective and promotes their interests. There will be a need for continuous training for new staff. This has capacity and funding implications for the LA.

It is important that pupils are invited to meetings if appropriate. Other methods of seeking their views may need to be considered if their needs are too severe to enable full involvement at review meetings.

It is appropriate that parents should have increased opportunity to raise views but there is concern that there is increased opportunity to challenge LAs and go to tribunal.

It is important that if a child/young person disagrees with provision/decisions it is their views which are represented and not of parents/other adults. A neutral advocate is needed.

The Bill does protect young people's rights over 19 in which it did not do previously. There is a risk that FEIs will refer unresolved matters to the LA which in turn could result in an appeal to the Education Tribunal. This is another risk to LA capacity.

Children and young people's interests are not strengthened by the lack of jurisdiction being placed on Health Trusts.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree

Disagree

Neither agree nor disagree

Supporting comments

It is appropriate that there is an emphasis of improving multi agency working. It is positive that Care and Support Plans and IDPs will be looked at together. It is also positive that a Designated Medical/Clinical Officer will take responsibility for coordinating health's contribution. However, due to the lack of accountability of other services, in particular the Health Trusts, the Bill does not improve this basis for improving joint working.

Securing ALP has remained unchanged. It is a concern that if Health Trusts do not agree on the child or young person having ALN or on the ALP, there is no mandatory process for compliance. Contradictorily, if the Health Trust requests to either change the ALP or remove it, the LA has no choice but to comply. The draft code of practice states health should be ‘invited’ to contribute to the IDP. This is not strong enough.

The lack of a graduated response means there is no clear guidance for schools on when to involve an outside agency and therefore, this could impact on the aim to improve the way that agencies work together and to protect a pupil’s ALN. There seems to be a total lack of accountability.

As many children and young people reside in Wales but access education across the border in England, there needs to be consideration of cross border arrangements. It is a concern that the EHC plans, process and responsibilities are so different to the proposed arrangements for an IDP. The English ALN Code of Practice states that “*where a child or young person with an EHC plan moves to Northern Ireland, Wales or Scotland, the old authority should send a copy of the child or young person’s EHC plan to the new authority or board, although there will be no obligation on the new authority or board to continue to maintain it*”. There needs to be clarity on the process Welsh LAs need to follow in this situation.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly funded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Whilst the Bill provides a framework to support disagreement avoidance and resolution, it is similar to the current legislation and it appears to be largely unchanged. The emphasis on avoiding disagreements at an early stage is positive and is a good principle. There needs to be clarity on the process and personnel needed at each stage. Capacity and funding implications need to be considered. The aforementioned lack of jurisdiction on Health Trusts will be detrimental to the LA.

Social Care Services have in the past set up independent advocates for children who are Looked After but this has been well resourced and structured with positive outcomes.

“Case friends” is a positive concept but needs careful planning and development of materials to ensure that young people are well briefed and understand the roles and responsibilities.

It is important that it is mandatory that parents access dispute resolution services before lodging an appeal with the Education Tribunal. Time limits for the appeal process need to be clarified. Currently there are 8 weeks after the final statement is issued in which an appeal can be lodged, however, in the draft Bill there is no clear time frame in which both an IDP

needs to be written once a decision has been made and how long after an IDP is issued an appeal can be lodged.

There is a risk of increased demand both to the dispute resolution services and to the Education Tribunal due to the extended age range and lack of a graduated response in the Draft Code of Practice. This will result in capacity and funding implications to the LA.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Draft ALN Code of Practice is not currently out for consultation. It is essential that it is published to ensure a wide range of stakeholders are informed and are enabled to contribute.

Many aspects of both the draft Bill and draft Code are open to interpretation. There is a risk that there will not be a standardised and consistent approach throughout Wales. It currently causes concern that there is a variation in working practices and the draft documentation does not address this.

It is positive that there is an emphasis on the suitability of mainstream education for most learners. It is also positive that there is no particular reference to ‘parental preference’ with reference to educational placements. However, the exceptions of “against the parent’s wishes” and the provision of “efficient education for other children” will need to be expanded upon with much more detail. The efficient education of other children should only apply in extreme circumstances where there is evidence that every adaptation and differentiation has been tried.

It is useful that there is mandatory content of IDPs as specified in the draft Code. This will ensure consistency.

The Draft Explanatory Memorandum assumes this will be cost neutral. This is unrealistic unless safeguarding processes are put in place to prevent the LA assuming more responsibility. Schools, FEIs and parents may manipulate the ‘loose’ process. Budgetary and capacity issues need to be considered.

The Welsh Government document aimed for learners themselves; *Plans for additional learning need: A Consultation for Children and Young People* states that the new system will ‘focus on education and learning, not other needs like health needs’. This is a concern as the initial reason for change was to work collaboratively.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The following additional related issues have been identified:

Role of the ALNCo

It is appropriate that the ALNCO should be part of Senior Leadership Team. Relevant qualifications are important and existing SENCos should have time to access training. The accreditation should entitle ALNCos to carry out access arrangements for Key Stage 4. Release for staff to access accredited course needs to be considered. The impact on small schools accessing training also needs to be considered. It is important that the draft Code of Practice Needs reinforces and clarifies that ALNCOs need adequate time for coordination of ALN in schools. This also needs to be costed appropriately as ALNCos will need to be paid a salary in line with their responsibility as part of a school's SLT.

Independent schools

The principle of establishing and maintaining a list is a good one but may result in delays especially if this process has to be gone through with each child for an independent school in England.

Role of the Educational Psychology Service

Clarity is needed on the roles for EPs and other LA officers in the preparation, maintenance and review of IDPs. The circumstances in which the LA need to involve EPs needs to be considered. There is clear guidance in the current code but no reference in the draft ALN code as to when schools need to involve the service.

Looked after children and detained persons

Person centred approaches and the thorough going development of IDPs for these groups of children is particularly important and especially challenging. This area of work will need specific guidance and cooperation between Local Authority departments to ensure that these vulnerable young people are supported in the best possible way.

Role of Careers Wales

As Careers Wales will not need to prepare Learner Support Plans due to the funding being within the RSG, the clarity of their role is needed.

Training

To disseminate the implications of the new Bill there will be a need to train all stakeholders. This has implications for the LA. It needs to be costed and financed appropriately.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Dr Lisa Hurt

On behalf of the Autism Collaborative Research group

E-mail:

Telephone number:

Address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
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	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input checked="" type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We have provided a response to Question 4 only.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We have provided a response to Question 4 only.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We have provided a response to Question 4 only.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Background

The Autism Collaborative Research group (ACRe) consists of researchers from Cardiff University (Schools of Medicine, Psychology and Mathematics), Cardiff Metropolitan University (Humanities Department), Swansea University (College of Human and Health Sciences), and University of Wales Trinity St David (Faculty of Education and Communities). One member of the group has a son with autism at school in Wales.

We conducted a pilot study in South Wales in 2015, with the aim of developing a better understanding of the architecture of the care pathway for children with autism, including the enablers and barriers to collaborative working faced by parents, teachers and health professionals. We conducted focus groups with teaching and support staff at a primary school with mainstream provision and an autism base; parents at the same school; and health professionals working within a multi-disciplinary neurodevelopment team. At the end of the focus group, the participants undertook creative writing exercises, to express their experiences in narrative and descriptive forms. We are currently analysing the qualitative data from three groups to i) provide high level maps of the autism care pathway from each of the three perspectives and ii) to examine whether it may be possible to develop interventions that aim to improve communication between schools, health professionals and parents, by better understanding how the language used by the three groups is similar and how it differs.

Our response to this question is based on the focus group discussions. Whilst our work focuses on children with autism, we feel that the experiences and views of our participants are relevant to the broader group of children with additional learning needs.

Response

All of our groups stated that multi-agency working is currently very difficult, although all also expressed a strong desire to work collaboratively. Barriers to collaborative working identified by all three groups included:

1. Individuals who do not know the child making the decisions (leaving the ones who have to work or live with the children angry and frustrated);
2. Decisions made on a tick-box basis, rather than based on the needs of the child;
3. Decisions and support reliant on a diagnosis having been made, rather than based on the needs of the child;
4. These decisions then leading to an overly drawn out process, which often results in very different access to services, even within the same school;
5. Both education and health felt that the amount and quality of information passed between them is lacking in detail. Difficulties were also reported with ensuring that information essential to making decisions was available at all, available in a timely manner, and/or were actually used to make decisions. Parents felt that they did not receive enough information to understand where they were in the process, or what they could or needed to do to move the process on;
6. Huge difficulties in getting the relevant people around the same table at the same time;
7. A postcode lottery of service availability;
8. A system which relies heavily on input from single individuals who have taken on specific roles because of their own specific interests, and therefore “carry” these services (making them unstable and unsustainable).

Which of these does the Bill address?

The Bill addresses the first point, by making schools responsible for preparing and maintaining of Individual development Plans (IDP), which is a positive step. It also seeks to address the second to fourth points, by allowing schools to act on “needs” rather than “diagnoses”. It may also address the fifth issue, if IDPs have a standard format, and their design has been produced in collaboration with parents, schools and health professionals.

Which of these does the Bill not address?

There is less convincing evidence that it will address the remaining issues. For example, school staff currently feel that their ability to access relevant health professionals is very limited, and health professionals express similar concerns about school staff (who they need contact with particularly during the assessment and diagnosis process). Although not all children with additional learning needs require input from health, a large proportion do. By placing all of the obligations for preparing and maintaining the IDPs on schools and none on health professionals, there is a real risk that the separation between the two systems may become greater rather than smaller. Members in all of our groups expressed frustration with the limited capacity of health and allied professions to attend meetings and provide actual

interventions within school settings. The phrasing in the Bill which suggests that health boards are obliged to deliver only the provisions that they have “*agreed to provide*” is unlikely to improve this situation.

Possible solutions:

- Our groups stated very clearly that plans for children with autism should follow an integrated approach, and should be made by education and health **together**.

This proposed Bill places all of the responsibility on schools and asks them to co-ordinate health care professionals, without specifying a mechanism for communication and joint-working. “*Encouraging improved collaboration*” is not enough. Clear roles and responsibilities in both the education and health sectors need to be defined.

- The role and responsibilities of the individual(s) who will draft and maintain IDPs should be clearly set-out, and specific training should be mandated for individuals taking on new responsibilities. Mechanisms should be put in place to ensure that this role is fulfilled in a consistent manner throughout Wales.
- The Bill should also mandate that health boards provide the health services that meet the child’s needs, not – as the Bill currently states – the services that the Health Boards “*agree to provide*”.
- If the IDP can be used as a document to fulfil the information needs of all of the professionals working with the child, this could reduce the need for families to re-tell the child’s history every time they see new professionals.

Research completed by the health professionals in our study (on an Autism Passport [About Me], a single document which aims to describe and inform families about the diagnostic process and help them through the assessment process) suggests that such a document is useful, feasible and well-liked by professionals, parents/carers, and children/young people.

For the IDP to be used in this way, it would require a standardised and consistent format which workers across all professions and areas/local authorities/health boards could use. It should contain a one-page summary for individuals who do not need to read the detailed information in the plan. In addition, communicating the “small” things is often as important as the bigger issues (e.g. noting the rewards that a child will respond to when they transition from one class to another). The IDP could therefore also be a hugely useful document for

use within schools (e.g. at times of transition) if it includes a section which allows for this communication.

- The provision of clear, understandable guidance on the steps to be taken when a need is identified, including when assessment should be an absolute requirement.

Although each child is different, there are certain steps which should be taken for all children when a need is identified. A centralised information resource could provide guidance on these steps for the different needs identified or diagnoses made, to ensure that every IDP is consistent and is a meaningful document which leads to action. In addition, although we accept that statutory assessment may not be necessary for every child with an additional learning need, assessment by a range of professionals provides essential information for the planning of the interventions necessary to address the need. In cases where disputes arise (especially where health and education cannot agree on the services and interventions that a child should receive), we would strongly contest that such disputes will be much harder to resolve, and that the process will take longer, without a mechanism for mandating that certain assessments are required.

- The development of improved, unified information resource(s) for parents, educators and health professionals.

None of the school staff or parents in our groups were aware of the Autism Strategy for Wales, or the care pathways for autism that they contain. We're certain that similar documents must exist for other additional learning needs. If all IDPs are to be of a high standard, and provide for a consistent level of care for children across Wales, much more awareness of government initiatives and policies must be generated, possibly using a centralised online resource. This could be coupled with an information resource for local areas so that parents and staff within education and health can easily access information about the services available in their locality. For such a resource to be useful, it would require central funding and a clear commitment to maintaining it.

Parents often don't have access to the support and training that would help them, and often feel very alone when trying to understand which support should be available for their child. We found that education and health professionals used multiple, but different, acronyms and jargon. Parents were left in the middle, trying to translate the terms into information that is meaningful to them, and trying to communicate between education and health. We are not yet clear on how the Bill will enable parents to be full participants in the IDP development

process, and ensure that they get the best out of the IDPs. Our parent group suggested a single point of contact to unify services would be helpful. Although this model is supposed to exist in current working practice in some areas, the professionals in our groups did not feel that this worked because it placed too much pressure on one individual who often does not have access to the individuals needed to provide information.

Innovative use of technology (with the information for each child with an additional need being stored in a secure environment which parents, education and health could access and update) may provide a solution to many of the issues identified above. The Autism Passport mentioned above is soon to be launched as a free mobile app; learning from and building on initiatives such as this (that have been developed and tested in Wales) could be of great value in ensuring that consistent and high quality care is provided for all children with additional needs as envisaged in the Bill.

Conclusion

We do not believe that the Bill in its' current form provides a guarantee of improvement in the way in which different agencies work together. In fact, there is a real danger – given the arguments set out above – that collaborative working may be more difficult. We believe that the solutions we propose may lead to improvements in the Bill, and would be happy to expand on these issues in person if that were required.

Acknowledgements

We would like to acknowledge the contribution of the parents, school staff and health professionals who took part in this pilot project. Funding for the project was provided by the Welsh Crucible.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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We have provided a response to Question 4 only.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Debbie Thomas

Organisation (if applicable): **National Deaf Children's Society (NDCS) Cymru.**

NDCS is the national charity dedicated to creating a world without barriers for deaf children and young people.

We support and represent the interests of deaf children and young people from birth through to independence.

Please note: This submission is supported by Action on Hearing Loss Cymru, BDA, Deaf Access Cymru, Wales Council for Deaf People, North Wales Deaf Association and Hearing Link.

Please also note that over 80 NDCS Cymru and Sense Cymru members took part in an e-action, calling on the Welsh Government to improve the draft Bill and Code to better protect learners with a sensory impairment.

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>

	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input checked="" type="checkbox"/> <input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NDCS Cymru is broadly satisfied with the proposed definitions of ALN and ALP, but wishes to raise the following points:

- NDCS Cymru has concerns regarding how schools will interpret the definitions provided. The Bill passes great responsibility over to schools to determine who meets the definition and is, therefore, eligible for an IDP. We are worried that schools will not appreciate that deaf children and young people will always meet the terms of this definition. Indeed, there is a general misconception that assistive listening devices like hearing aids, cochlear implants and radio aids restore typical hearing levels. Often frontline education staff are not aware that these pupils cannot hear to the same level as others and do not understand the impact that this hearing loss can have on their learning. If the next iteration of the Bill continues to place schools and FEIs as the primary decision-makers for IDP eligibility, it will be imperative that statutory guidance is provided to assist appropriate identification of ALN. As identified within the current definition of SEN in the Education Act 1996, a disability can lead to

special requirements in order to ensure that a child can access education. Those with a sensory impairment will consequently have specific requirements in order to access learning and should, therefore, automatically receive an IDP. This would reflect the Welsh Government's current position that all those with any permanent level of hearing loss should be on at least School Action.⁶

- We would urge that the definition refers to “learning” as opposed to education. We feel that this term would be more reflective of the fact that learning in environments outside of school, particularly the home setting for 0-5 year olds, is an important aspect of their development. It also better encompasses the learning support which may be required from departments other than traditional “education departments” eg equipment/aids.
- We would welcome some acknowledgement within the Code or accompanying guidance that those with a temporary disability would be covered by the definition of ALN. For example, children suffering from glue ear for a prolonged period can experience deafness over many years, which can impact greatly on their learning experience.
- It is important that (as identified in the definition) those who have “greater difficulty in learning than the majority of children” are included in the definition. However, it is imperative that this is not interpreted as a child having to demonstrate this difficulty, or “fail” before an intervention can take place. Whilst failing is obviously to be considered an important trigger point for an IDP, it must not be considered an essential factor for IDP eligibility. The definition, or accompanying guidance must prompt authorities to initiate an IDP at the earliest opportunity: this should, wherever possible, be before a child reaches a point when s/he is falling behind the attainment of her/his peers. It will also be important to acknowledge that a disabled child may be achieving on a par with peers, but still not actually reaching his/her full potential because access requirements have not been met.

NDCS Cymru welcomes the intention for the new IDP system to cover the 0-25 age range, but strongly disagrees that the draft Bill appropriately encapsulates the full age range. In particular, we would highlight the following points:

- We are disappointed and frustrated that the Bill, for the 16-25 age range, is limited to those studying in further education as it will be equally important for those moving onto apprenticeships and higher education to have their support needs met. In this regard, it is particularly disappointing that apprentices within this age range in Wales will not enjoy parity with those in England, who will be entitled to an EHCP. Furthermore, it is worth noting that the recent proposals on Disabled Students' Allowance would place more responsibility on universities to provide support for disabled students, further compounding the need for IDPs to continue into the higher

⁶ Ministerial letter to Directors of Education, December 2009

education sector. NDCS Cymru ran consultation sessions with deaf young people on key aspects of the reforms where some expressed concern about not having an IDP going into university. One young person, who will soon be applying for university, said: “I would be worried because they wouldn’t know what support I would need.”

- NDCS Cymru believes it is essential that the new system works effectively for the early years as these years are vital in laying the foundations for a child’s educational development. However, neither the Bill nor the accompanying draft Code of Practice provides sufficient detail to ensure that the system will work within the early years context. More detail is urgently needed on how the co-ordination of an IDP will operate within the early years context. It is also worth noting that while it is to be welcomed that parents of all pre-school children will have a right to request an IDP of a local authority, realistically, many parents will not know about this right. It is important that professionals who come into contact with parents in the early years have knowledge of the system and a duty to refer on. This would include health visitors, nursery workers, audiologists, and staff working for programmes such as the Newborn Hearing Screening Programme.
- Similarly, there is a lack of clarity on how the system will operate within the post-16 context. Key points, including the following need to be addressed:
 - More detailed guidance and information is required to ensure that FEIs have the appropriate systems and structures in place to co-ordinate and maintain IDPs.
 - NDCS Cymru appreciates that the Code of Practice is still in draft stages, but wishes to emphasise that much more detail will be needed in the final draft regarding transition to further education. In addition, we are concerned that references to transition planning in the current draft Code often include “should” statements, as opposed to “must”. Historically, the transition from school to FE has proved difficult for many learners with ALN, so it is important that the new Code of Practice provides a clear directive. For example, paragraph 164 states that applicants and enrolled learners “should” be given the opportunity to declare whether they have ALN and that following such a declaration, the FEI “should” discuss with the learner how they will provide support. If the system is to operate effectively, it is imperative that these actions are mandatory for all FEIs.
 - In the interests of seamless transition, NDCS Cymru recommends that FEIs be required to continue IDPs for learners leaving school unless/until an assessment determines that the learner no longer has ALN.
 - Transition planning must be an integral part of the IDP process. It is, therefore, frustrating and disappointing that transition planning is not listed within Chapter 10 of the draft Code of Practice, which identifies the mandatory content for IDPs.
 - At present the draft Bill and Code do not address the needs of young people who may decide to attend FE after taking a break in their education. Systems and structures must be in place to ensure that these young people can easily access an IDP in a timely fashion. These individuals must also be made aware of their ability to

approach their local authority about the possibility of gaining a placement at a specialist college.

- NDCS Cymru has previously highlighted concerns that the new funding mechanisms for FE offer a great incentive for local authorities to give bias towards mainstream FE placements and similarly, and vice versa, for FEIs. NDCS Cymru requires guidance to safeguard against learners becoming caught up in lengthy disputes between FEIs and local authorities.
- NDCS Cymru has previously raised concerns about funding for specialist FEI placements being passed to local authorities as part of the Revenue Support Grant. It will be important to ensure that this funding is not subsumed and that local authorities are meeting their responsibilities in this regard.
- NDCS Cymru would also welcome further information regarding the determination of funding to FEIs for supporting ALN in mainstream placements.
- NDCS Cymru demands further guidance on transition more generally. The present arrangements for children and young people at other transition stages, such as starting primary or secondary school,
- could be much improved. These transition stages can be challenging for any young person, but particularly so for those who require additional support.
- NDCS Cymru acknowledges that the published Draft Code of Practice will be further developed, but we are concerned that the current draft is very focused on schools. It neither adopts a language that is applicable to the 0-25 context nor does it sufficiently outline the process outside of the school context. In particular, outside of the school context it is unclear who will be responsible for co-ordinating an IDP. In order to secure accountability, it is imperative that families have a clear point of contact. NDCS Cymru believes that the local authority should have a duty to appoint a key co-ordinator.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Disagree. NDCS Cymru welcomes aspects of the proposed reforms. However, NDCS Cymru strongly disagrees that in its current format the draft Bill facilitates a robust legal

framework for the preparation, maintenance and review of IDPs. In order to achieve this, NDCS Cymru considers that further work is required in the following areas:

Timeframes

In order to provide a robust legal framework for the new system, it is imperative that firm and fair timeframes are provided. The current Code of Practice fails to provide timeframes for many key aspects of the process. For example, paragraph 170 states that the school must notify the child and the parent of its decision on whether a child has ALN “as soon as possible”, but it is important to determine a timeframe for this. There are also various other key timeframes missing from the current draft version of the Code of Practice. NDCS Cymru would wish to work with the Welsh Government to further develop clear timeframes for the IDP process.

Assessment process

It is clear that the quality of an assessment will have an impact on the quality of subsequent plans and, ultimately, outcomes. NDCS Cymru is, therefore, concerned that schools/colleges will be the primary gatekeepers for determining whether a learner requires an IDP. Many frontline staff will not have the training or knowledge to determine when a young person may have needs that require local authority or specialist input. This is particularly the case for low incidence needs, such as deafness, which are often misunderstood. Indeed, there is a common misconception that listening aids like hearing aids and cochlear implants restore typical hearing level. In fact, these devices are assistive aids which provide improved access to sound, but do not eliminate a hearing loss and, as such, these pupils will require further support in accessing learning. If staff do not have an understanding of the need to include specialists in an assessment, the plan will fail the learner at the first hurdle. Therefore, NDCS Cymru recommends that certain low incidence disabilities, such as deafness, should be clearly identified as needing to be passed to local authorities.

This concern is further exacerbated by the lack of detail in the draft Code of Practice about the content of an assessment and the lack of reference to the inclusion of specialist professionals and educational psychologists. We recommend that the final version of the Code of Practice places greater emphasis on the need for rigorous assessment and also appropriately references the role of educational psychologists and specialist professionals. In particular, we would strongly urge that the Code of Practice clearly references the need for Teachers of the Deaf to be involved in assessments of hearing impaired learners. Indeed, paragraph 9.49 of the English Code of practice states: “If the child or young person is either vision or hearing impaired, or both, the educational advice and information **must** be given after consultation with a person who is qualified to teach pupils or students with these impairments.”

NDCS Cymru recommends that the Welsh Government develops provision pathways for specific needs, including deafness, to help those co-ordinating IDPs to identify the professionals that may be required. The attached NatSIP (National Sensory Impairment Partnership) document Better Assessments, Better Plans, Better Outcomes (accessed at http://www.ndcs.org.uk/professional_support/news/better_plans.html) highlights the professionals and assessments that should be considered for deaf learners and could be utilised in such a pathway.

NDCS Cymru is concerned that for learners at school or college, the process is overly reliant on the ALNCos role, which can lead to the quality of IDPs being dependent on one individual. It is difficult to see how ALNCos will have appropriate training to cover the range of disabilities and needs that they will encounter during their careers. Ensuring that ALNCos have adequate time to fulfil the role of co-ordinating IDPs could also be problematic. Furthermore, it is not clear who will be responsible for driving forward the process outside of the school/college context. NDCS Cymru recommends that the local authority has the

responsibility for naming a key co-ordinator in these cases, so that it is clear to families and professionals who they need to contact.

NDCS Cymru considers that the duty placed on health bodies in the draft Bill is weak and could be detrimental to the inclusion of health provision in IDPs. NDCS Cymru is concerned that health bodies could be reluctant to include any provision within the IDP in order to evade legal duties.

The IDP Document

NDCS Cymru is highly concerned by the proposal not to issue a standard template for the IDP. We believe that the Welsh Government must provide a national template in order to secure a consistent, transparent and portable IDP. A template would also help to uphold the legal integrity of the document. In addition to this response, NDCS Cymru has attached a recently published report by NatSIP (National Sensory Impairment Partnership) which analyses the use of English EHC plans. The report reveals that, even with a model in which local authorities are required to include statutory headings, many key aspects of the plans are often missed out (page 7). It also concludes that “very few plans used clearly marked sub sections making it difficult to find the required information” (page 9). The report indicates that of the 40 EHC plans analysed, not one consistently met the five requirements of “SMART” (specific, measurable, achievable, relevant, time bound) outcomes. Furthermore, it was recognised that “many plans described provision in woolly terms such as ‘would benefit from...’, ‘have access to...’ (page 15), reducing the legal accountability of the plans. This, again, leads NDCS Cymru to the conclusion that a national template IDP is needed to secure a robust system, which takes heed of the pitfalls of the English EHC Plans.

NDCS Cymru is an active member of TSANA (Third Sector Additional Needs Alliance), which has identified a number of key points to be included in the content of an IDP. These can be viewed in the attached paper which was submitted to the Welsh Government as part of a Task and Finish Group advising on the reforms. Although some of the points identified have now been taken on board in the descriptions provided in the Code of Practice, some key content points remain unaddressed eg: the inclusion of transport and accommodation requirements should be a mandatory part of the IDP. A clear section on planning for transition points is also missing. In addition, NDCS Cymru believes it is important for the IDP to include a section on parental views as the NatSIP review of EHCPs in England revealed that parental aspirations were most helpful to the assessment process when divided into short, medium and long term.

It appears that IDPs will be permitted to identify an *intention* to explore provision further if it cannot be agreed at the meeting, i.e. “ALNCo to seek advice from speech and language therapy.” Although working in this way does enable a certain degree of flexibility and ensures that IDPs will not be inappropriately delayed by one aspect of provision, it is concerning that such descriptions would ultimately leave learners without legal entitlements to provision included in this way. It is imperative that further direction and timeframes are provided to ensure that working in this way is not to the detriment of the learner and his/her right to access appropriate ALP.

NDCS Cymru seeks clarification on the process should a FEI refuse support to a learner. Will local authorities only be allocated funding to support FE learners in maintained school-based sixth forms or for placements at specialist colleges? Or will local authorities also be allocated funding to assist with specialist cases in mainstream FE?

Should a learner be turned down by a FEI, it will be vital that they have support in finding an alternative placement or in finding a temporary placement whilst an appeal is pending. We also seek clarification on the situation should a local authority decline a request to place a learner at a specialist college and a FEI similarly decline a placement for the learner, as it is

not within the power of the local authority to order a FEI to enrol a learner. It is imperative that in such a situation, the learner is not left in limbo, or that time delays are avoided in accessing further education for reasons beyond the learner's control.

NDCS Cymru recommends that the process requires assessment information to be with families prior to the IDP meeting, allowing time to consider and prevent them from feeling "railroaded" at the meeting. This suggestion was part of earlier proposals, but now appears to be missing.

Person Centred Planning

NDCS Cymru strongly welcomes the ethos of person centred planning, but is concerned that the draft Bill and Code at present do little to ensure that PCP practice will be of a meaningful and consistent standard across Wales. It is worth noting the points highlighted in the attached TSANA paper about meaningful PCP. Crucially, NDCS Cymru wishes to see a commitment to train key staff in PCP, and the development of minimum standards for involving children/young people in both the IDP process and the advocacy support available to them.

Review

NDCS Cymru agrees that as a minimum, IDPs should be reviewed every 12 Months, with the ability to request a review prior to the 12 months if it is deemed necessary. However, we are concerned that the current provisions placed in the Bill make it possible for local authorities, schools or FEIs to make alterations to/cease an IDP without meaningful consultation and engagement with the learner and family. We strongly urge that this is rectified.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Disagree. As outlined in response to question 2, NDCS Cymru considers that the proposed reforms place too much emphasis on schools as the gatekeepers to support. This makes those with low incidence needs liable to slip through the net as ALNCos may be unaware of the need to involve key specialist professionals in an IDP assessment or to pass the case onto the local authority. Consequently, the ability of deaf children and young people to receive specialist support could be severely compromised with detrimental effect on educational progress. We strongly recommend that the need to include Teachers of the Deaf in an assessment of a deaf child is clearly identified, as in the English EHCP system. We would also recommend the use of provision pathways which provide guidance on key professionals and assessments that may need to be considered.

NDCS Cymru is concerned that provision is made for young people over the age of 16 to refuse an IDP, but requires appropriate statutory guidance and legal exceptions to ensure

that this clause is not abused. In particular, the Bill and Code should acknowledge that, in some cases, a young person will not have the mental capacity to make this decision. NDCS Cymru would recommend the Fraser and Gillick competencies as a guide in this regard. Furthermore, it is imperative that where a young person with the appropriate capacity takes the decision to refuse an IDP, all efforts are made to ensure that the young person fully understands the IDP process and the statutory protection that an IDP provides. NDCS Cymru would urge that the Code of Practice outlines systems and structures for ensuring that such appropriate and thorough consultation has taken place in these scenarios.

NDCS Cymru would also call for strengthened provision in the Code of Practice to ensure that children and young people are made aware of their rights to advocacy/complain/appeal at each stage of the IDP process.

Furthermore, it is important that deaf children and young people feel comfortable and confident in working with the person co-ordinating their IDP and facilitating their involvement. It will be important that these professionals have appropriate training in PCP. The attached TSANA paper, which was submitted as part of a task and finish group advising on the reforms, outlines a number of key points which we feel are essential if the new system is to be person-centred in a meaningful way. NDCS Cymru is concerned that many of these points are not reflected in the draft Bill and Code of Practice.

NDCS Cymru held two consultation sessions with deaf young people. At both sessions reservation was expressed about the ALNCo co-ordinating the IDP. When asked about the qualities an ALNCo should have, the young people identified points such as "helpful", "friendly", "respectful" and known to them. However, the most common theme was the importance of the ALNCo having good deaf awareness skills. The young people raised points such as "clear signing", "good facial expression and BSL user", "clear speaking" and "deaf aware". Clearly, it is really important for deaf young people to feel comfortable that the person co-ordinating their IDP is able to communicate effectively with them. In light of the points that the young people raised, we would urge that the new system puts measures in place for young people to be able to seek an alternative co-ordinator if they so wish.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Disagree. NDCS Cymru is disappointed that the draft Bill appears to fall short of the initial intention at the start of discussions on reform for a new multi-agency approach. In particular, NDCS Cymru would highlight the following points:

- The duty placed on health providers is very weak. Health bodies can evade any responsibility by refusing to commit to providing support in an IDP. NDCS Cymru wishes to clarify whether local authorities, schools and FEIs will have a duty to

provide any support identified in the assessment process for which health bodies do not commit. We also seek clarification on any sanction there may be on health bodies which fail to offer/provide support identified within an IDP.

- In principle, NDCS Cymru welcomes the development of a Designated Clinical/Medical Officer to provide liaison between health boards and schools/colleges/local authorities. However, we believe that more clarity is needed to ensure that this role operates effectively. In particular, we wish to ensure that the role will not discourage or prevent specialist professionals from being involved in the assessment of a child/young person's needs.
- Paragraph 132 of the draft Code of Practice states that "where a health body, in the course of exercising its functions in relation to a child who is under compulsory school age, and for whom a local authority in Wales is responsible, forms the opinion that the child has (or probably has) ALN, the health body may bring the matter to the attention of the appropriate local authority." The Code goes on to state that this should only happen where it is in the "best interests of the child". NDCS Cymru fails to see how this could ever be other than in the best interests of the child. We also question why this duty is only applicable to those "under compulsory school age", when the IDP will have a larger remit than this. Furthermore, we consider that the word "may" weakens this responsibility to refer considerably.

The duty placed on health bodies in England is much stronger. Clause 23 of the Children and Families Act states that where the NHS forms the opinion that a child has (or probably has special educational needs or a disability, they must inform the child's parent and give them the opportunity to discuss the matter with them. They **"must** then bring their opinion to the attention of the appropriate local authority in England." This clause also places a duty on health bodies to signpost onto any relevant voluntary organisation to provide advice or assistance.

- NDCS Cymru considers that other public bodies, in addition to health bodies, should also have a duty to refer cases in this way. For example, paragraph 138 of the Code of Practice highlights that many children under compulsory school age attend non-maintained settings and that parents of these children can contact the local authority to determine if their child has ALN. We suggest that professionals at non-maintained settings be enabled to make referrals similarly.
- NDCS Cymru is disappointed that there is no reference to health visitors and the role that, as the primary professional contact for many young families, they can play in early identification of children with ALN.
- There is a lack of reference to social care within the reforms. It is worth noting that the EHCP system in England, which does have a specific social care remit, appears to be failing to achieve this in practice (see attached NatSIP review of EHCPs). In light of this, it is difficult to see how the proposed system for Wales, which places less emphasis on collaboration with social care, will deliver on this front.

- More detailed guidance is required for meaningful and consistent collaboration between schools and FEIs, as well as between FEIs and HEIs.
- Provisions are made for multiple plans and assessments to take place at the same time. NDCS Cymru appreciates that this proposal has benefits in terms of sharing key information, the ease of processes for families and the time constraints of professionals. However, it is important that a decision to combine assessments in this way should not be made to the detriment of the young person's best interests. For example, it may not be appropriate to combine assessments if it could lead to a considerable time delay in the young person receiving support.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NDCS Cymru is pleased that the right of appeal is available across the whole range of complexity of needs and agrees that this is a positive step forward. However, we have a number of concerns which we wish the Welsh Government to address prior to the introduction of the reforms:

- Statutory guidance is needed to ensure advocacy and DRS services meet a minimum and consistent national standard. NDCS Cymru would welcome the opportunity to work with the Welsh Government in this regard.
- Firmer timeframes are required for core aspects of the IDP process in order to secure legal accountability.
- The Code of Practice needs to be strengthened to ensure that accessible advice on advocacy, complaints and appeals is given and understood by families at all key stages of the IDP process. This is also applicable to the Draft Bill, for example section 18 should require that in informing families of a decision not to reconsider an IDP, the notification must also include details of the right to appeal this decision.
- It is unclear how disputes around provision for which health is named within the IDP will be dealt. Will local authorities, as the ultimate responsible bodies, be accountable at tribunal for any provision in the plan? Or, as previously outlined in discussions with the Welsh Government, will families be expected to appeal through Putting Things Right? NDCS Cymru is dissatisfied with this suggestion, as it believes the appeals

process should be clear and simple.

- While the Draft Bill does state that a governing body or local authority must inform a child and parent of an intention to cease to maintain a plan (section 20), it does not require representations from the family to be invited and considered. NDCS Cymru urges that this is rectified.
- NDCS Cymru agrees with the grounds of appeal to the Education Tribunal outlined in the draft Bill, but wishes to clarify the following points:
 - Could a decision on the transport/accommodation needs associated with a placement be added to the tribunal remit, or would this be covered under the right to appeal “the ALP in the IDP, or the fact that ALP is not in an IDP”?
 - Could the tribunal hear cases on failure to provide what has been outlined in a plan?
 - Could appeals on the objectives/outcomes outlined in a plan be added to the grounds of appeal?
 - Should the tribunal hear appeals on the way in which an IDP assessment was conducted (i.e. disagreement over whether appropriate professionals were involved in the assessment, whether the process was inclusive of the young person)?
 - It is unclear whether the Tribunal’s remit of disability discrimination in education will be extended to cover the post-16 age range.
 - It is not clear what action would be taken if a local authority or FEI fails to comply with a tribunal order.
 - The draft Bill highlights that local authorities or FEI governing bodies can be taken to tribunal, but does not highlight school governing bodies. Since school governing bodies are to be responsible for drafting and maintaining many IDPs, it will need to be clear to families that they still have a right of appeal to the local authority and the steps that they would need to take to lodge an appeal.

Views of deaf young people on advocacy services

NDCS Cymru recently undertook two consultation sessions with deaf children and young people to seek their views on key aspects of the proposals. Our session at the hearing impaired resource base at Queen Elizabeth High School in Carmarthen focused on advocacy services. Their feedback is outlined below:

How do you feel about being involved in the meeting?

Of the eight young people present, five said they felt happy about being involved in the IDP meeting, two said they were unsure and one said that the idea made them feel nervous. The young people expressed reservations about not being “stared” at, or feeling awkward working with people they didn’t know. Another young person expressed a worry that the professionals might say something negative about them. It was clear that the unique needs

of each individual should be considered in order to ensure that the IDP meeting is effective and that they feel confident and happy to express their opinions.

My dream advocate...

When asked what qualities an advocate should have, the group made the following comments:

- My dream advocate is going to be nice, not interfering how I present my work, helpful, one of my best friend, young, know my needs and how to explain it in my view of understanding. *and I am asking for a familiar person I know.
- The things that would make me comfortable to ask help from the service are to ask other people such as the head of deaf, parent's opinions and ideas.
- Good conversation
- Trust
- Young
- Good English
- To make you confident
- One to one
- Important help people
- High level for sign language
- Knows about deaf
- My dream advocate would be nice, kind, beautiful (she), friendly and personally close.
- The skills they should have should be brainy and skilful.
- Respect
- Important to be a nice person and friends
- To talk to someone you met it not good to meet someone you don't know.
- Sign would help me boost my confidence
- It would be good to include someone close and friendly.
- We need help with English
- Deaf need sign
- I want to be involved

- Help plan

In reading through the young people's comments, it is clear that it will be important for advocates to be trained in deaf awareness and to be able to access sign language interpretation. It will also be important for some young people to be able to include a family member or someone they know well in meeting with an advocacy service. It is imperative that young people feel comfortable with their advocate so services should enable young people to change advocate if they so wish.

I would like to contact an advocacy by...

Many of the young people indicated that they would like to be able to contact an advocacy service by text or by email.

Others highlighted Facebook and other social media (snap chat) and also highlighted the need for an interpreter for those who use sign language.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Draft Additional Learning Needs and Education Tribunal (Wales) Bill: Outline of plans for legislative changes to be implemented across Wales

NDCS Cymru would welcome much greater detail than is provided in this document. In particular:

- It is not clear how the introduction of IDPs across all settings is to be phased in over a two year period. If the implementation is to be phased across two years, will certain groups of learners be given priority in the early stages of the reforms?
- The nature of the training on statutory requirements and which professional groups will receive this training is unclear.
- Similarly, the nature of the ongoing programme of engagement and support is unclear.

Impact Assessments

The Equality Impact Assessment states that the Bill will have a "positive" impact for those with hearing impairment (page 7). Whilst we agree that the statutory nature of the IDP will be positive, the reason provided for rating the impact in this way is not specific to the hearing impaired population and does not account for the issues that we have identified during the course of this response. In particular, our concern that it will become increasingly difficult for deaf children and young people to access assessments by appropriate specialist professionals. Moreover, we are concerned that this document indicates that "not all

children and young people with the impairments listed opposite [of which one is hearing impairment] would have ALN." This is contrary to existing guidance from the Welsh Government issued in 2009 by Jane Hutt that all pupils with a permanent hearing loss of any level should be recorded as having special educational needs. In addition, this appears to be contrary to the definition provided in the draft Bill. NDCS Cymru considers that any level of hearing loss can have an impact on a child's learning needs and that if appropriate adaptations and support are not provided, that the child's learning will be hindered.

The Equality Impact Assessment highlights that the "Third Sector Additional Needs Alliance (TSANA) and the Welsh Government have formed a Task and Finish Group specifically to support the development of the ALN reforms. These meetings have been used to inform policy and provide further clarity and details on our proposals" (page 4). NDCS Cymru is an active member of TSANA and while we acknowledge that some aspects raised in the task and finish group have been addressed, there are many key and significant concerns that remain (see TSANA's response to this consultation for further information.)

The Welsh Language Impact Assessment states that the draft Bill will "ensure the needs of learners with ALN, including those in Welsh medium education, are better planned for" (page 9). However, as identified in the Welsh Government's recently published *Workforce Planning for Special Educational Needs (SEN) Specialist Services September 2015*, there are problems in recruiting Welsh medium specialist professionals and the proposals do little to improve this situation.

As identified throughout this response, NDCS Cymru is concerned that the draft Bill and Code in the current format, do not sufficiently outline meaningful support services to enable young people to participate in the IDP process; a clear or transparent system; increased multi-agency collaboration; an appropriately robust disagreement resolution system; nor clear rights of appeal. As such, we would disagree with conclusions drawn in the Children's Rights Impact Assessment.

Draft Code of Practice

NDCS Cymru appreciates that the Code is to be considered an early draft and is pleased to be able to contribute to the Welsh Government's group looking at the development of the Code through our involvement and membership of TSANA. However, it should be noted that, in its current format, NDCS Cymru considers the draft Code to have major flaws and to be grossly inadequate as a legal and robust document to support a new system. We have already identified areas of weakness within the Code as part of our responses in questions 1 to 5 of this response. In addition, we would raise the following points:

- There is a lack of reference to educational psychologists and to the important role of specialist professionals (e.g. teachers of the deaf and speech and language therapists) throughout the document.
- The language throughout the Code is focused on the school context as opposed to the full 0-25 age range. For example, page 9 "meeting the needs of learners with ALN should be part of a whole school approach to school improvement". It should also be part of a whole college approach.

- NDCS Cymru would welcome greater reference to the Equality Act in the Code, emphasising that where a child is disabled, all public bodies must make reasonable adjustment to prevent disadvantage.
- More information is required in the Code on the assessment process.
- Paragraphs 34-37. These paragraphs do not highlight the role of specialist teachers, such as teachers of the deaf in providing training and guidance.
- It is important that teachers of the deaf and MSI teachers are added to the list at paragraph 125.
- It would be beneficial if the general principles in the Code included the need to seek the best **outcomes** for the child/young person. Paragraph 1.1 of the England Code of Practice states: “The need to support the child or young person, and the child’s parents, in order to facilitate the development of the child or young person and to help them achieve the best possible educational and other outcomes, preparing them effectively for adulthood.”
- We note that the Code of Practice, like the current Code, is written for professionals. We would suggest that a further document for families and children and young people would be useful in encouraging empowerment.
- The Code would benefit from specific sections on Early Years and Post-16 to ensure that there is clarity on how the system would operate in these contexts.
- More detailed timeframes are required throughout the Code in order to maintain legal integrity and accountability within the system.
- Much more detail is required on key transition stages to ensure that there are specific duties on nurseries, schools, colleges and other relevant bodies.
- NDCS Cymru notes that Welsh Government policy is to favour mainstream education wherever possible. We appreciate that for many learners with additional learning needs, mainstream provision with relevant adaptations and support is the most appropriate setting. However, it remains that some learners will require a specialist environment in order to reach full potential. Within the present system, local authorities can be reluctant to fund such placements. It is important that the new Code of Practice does not exacerbate this situation. NDCS Cymru considers that the Code should emphasise the importance of specialist placements for some learners.
- Paragraph 41 states that an ALNCo should be part of the senior leadership team. NDCS Cymru considers that this should be a “must.”
- Paragraph 45 outlines an extensive and perhaps unrealistic list of key responsibilities for ALNCos. It will be important that ALNCos are afforded appropriate dedicated time to fulfil their duties. It is also imperative that they receive training in person centred practice, the IDP process and specific disability awareness (including deaf awareness). NDCS Cymru would welcome the opportunity to discuss ALNCo training further with the Welsh Government.

- It is important throughout the Code of Practice that emphasis is placed on ensuring that all communication with learners and families is in line with the specific communication needs of each learner and family.
- Paragraph 78. In addition to being informed which staff member with whom to discuss any concerns, it is important that parents are informed of their rights in the IDP process. Parents should also have the ability to change this lead contact if they wish.
- It is imperative that families are proactively provided with appropriate information on the IDP process and of their rights at every key stage and in a format which meets their communication needs. NDCS Cymru would suggest that contact should be made with every family at the start of an IDP referral to offer advice and information.
- Paragraph 103 states that “if a person has a learning difficulty or disability which calls for ALP, the individual should be considered as having ALN.” This should be “must”.
- NDCS Cymru welcomes paragraph 120. We would add that a pupil may be achieving well across all subjects, but may still have ALN due to a disability such as deafness. Without an IDP and appropriate support, these pupils would not be afforded equality of opportunity or the opportunity to reach their full potential.
- Paragraph 138, the duty on early year providers to refer on is too weak.
- NDCS Cymru is concerned by paragraph 145, which, highlights trigger points for an IDP and states “concerns may arise, for example, where a pupil, despite receiving appropriate education experiences [...] has sensory or physical problems, and continues to make little or no progress against that which is expected of the individual, despite the provision of specialist equipment.” This statement implies that assistive listening devices alone can be sufficient adaptation for a deaf child. This is not the case. Assistive listening devices do not restore typical hearing levels. The statement also implies that these children should have to demonstrate that they are failing before further support is provided. However, as identified above, deaf pupils will have access requirements which should be addressed as a matter of equality of opportunity. Deafness in itself should be regarded as a trigger for an IDP.
- We would urge that paragraph 150 should also highlight that a diagnosed disability should trigger a school to consider whether a child has ALN. In the case of deafness, NDCS Cymru would suggest that all deaf children would have some adaptation requirements and would require an IDP. This is in line with a Welsh Government directive that all children with any level of permanent hearing loss should be recorded at a minimum of School Action.
- Paragraphs 154 and 155. NDCS Cymru would urge that the school/FEI should seek external specialist advice as soon as possible if they have concerns. For example, from a teacher of the deaf.
- Paragraph 159 states that “every FEI has duties under the Act to identify and address the ALN of the students enrolled with them. All FEIs should have a clear approach to identifying and responding to ALN.” NDCS Cymru believes that more

direction is required on the nature of this to secure a transparent and consistent approach across Wales.

- As identified earlier in this response, the points relating to the role of the FEI in identifying the needs of ALN learners and of working with schools to pre-plan for learners' needs are weakened by the use of "should" as opposed to "must" (paragraphs 162-164).
- Paragraph 170. As indicated earlier, clear timeframes must be given in chapter 8 for making decisions on whether a child or young person has ALN in order to maintain transparency, accountability and legal integrity.
- Paragraph 171 should be compulsory and should also inform of the ultimate right to appeal to the Education Tribunal.
- Paragraphs 172, 181 and 190 require further clarification. It is important to define "differentiated teaching" and to draw a clear demarcation between "differentiation" as part of regular teaching practice and "differentiation" which becomes ALP.
- NDCS Cymru welcomes the suggestion in paragraph 184 that local authorities may wish to set up moderating groups to support consistent and transparent decision-making in relation to identification of ALN. We would suggest that such moderation groups could also be used to review the quality of the IDP process in addition to consistency.
- The points outlined in paragraph 189 should form a compulsory part of the FEI decision. In addition to the points highlighted, we would suggest that this notification include information on how to apply to the local authority for a specialist FEI placement. As indicated earlier in this response, we seek clarification on how the learner's case will be progressed following an FEI decision not to enrol a learner with ALN.
- It is imperative that paragraph 196 also acknowledges the need for local authorities to be responsible for IDPs where a learner has low incidence needs, such as deafness. Indeed, such needs require specialist provision which is beyond the knowledge base of generalist education staff. By their very nature, low incidence needs mean that there will be low and fluctuating numbers of learners with such needs in a local area. As such, it can be difficult to sustain specialist staff on a local school level. Local authorities are better equipped to provide responsive specialist sensory service.
- As identified earlier, it is imperative that paragraph 207 acknowledges that, where a young person does not consent to an IDP, they have been fully informed and that they have the capacity to make that decision.
- In paragraph 209, we would recommend that information on the right to access Disagreement Resolution Services and to appeal to tribunal should be included within the notification that the child is not considered to have ALN. It will be important that this notification meets any specific communication needs the family may have.
- Paragraphs 222 to 230. Clarification is needed on what happens to a learner's

support where a FEI requests a local authority takes over responsibility for an IDP and the local authority decides against this. Will the local authority be able to direct the FEI to continue to provide the support?

It will be important to ensure that families and learners are aware of their rights to access advocacy, disagreement resolution and to appeal at the start of the process and again when they are notified of a decision. It will also be important, as with other sections of the Code, for this process to have clear mandatory timeframes.

- NDCS Cymru is disappointed that the local authority duty to keep ALP under review relates to establishing only whether overall need for ALP is met and not also as a form of quality assurance. NDCS Cymru believes that local authorities should have responsibilities to ensure that they are providing a quality support for learners with ALN.
- Paragraph 238, NDCS Cymru would add that the local authority is considering enrolling a child or young person at the institution.
- Paragraph 247. NDCS Cymru demands that any communication needs of both the child/young person and/or their parents are recorded within the IDP.
- Paragraph 251 should also outline the need to quantify the amount of support to be given.
- NDCS Cymru would also urge that, wherever it is applicable, the mandatory aspects of an IDP include; the name of any educational institution being attended or due to attend (the current provision only makes naming of maintained schools in Wales mandatory); accommodation details (for residential placements); transport arrangements; details of specialist equipment used and any essential maintenance information for that equipment; the views and aspirations of parents.
- As indicated above, NDCS Cymru considers that paragraph 264, which suggests that it would be useful to outline any communication or access requirements, should be mandatory wherever this is relevant to the case.
- NDCS Cymru considers the information outlined in paragraph 286 to be crucial for an IDP and would, therefore, wish for this section to be strengthened beyond guidance which simply “might be useful.”
- Paragraph 287 implies that the learner will receive what the service provider is prepared to offer as opposed to the support that the learner needs. This is contrary to the ethos of person centred planning.
- Paragraph 307, NDCS Cymru would add that the child/young person must be informed of how to access advocacy support.
- NDCS Cymru would add “ongoing support needs” to paragraph 310.
- Paragraph 312. NDCS Cymru believes it is important to clarify that professionals other than the ALNCo may also be required in order to seek specialist advice on a non-complex case. For example, a deaf learner may not have any other additional

needs, but it will be important to seek specialist advice from a Teacher of the Deaf.

- Paragraph 314 indicates that families could potentially see the advice submitted by professionals for the first time at the IDP meeting. It is our understanding that a draft IDP is to be agreed at this meeting. As such, NDCS Cymru is concerned that families could feel railroaded. It is imperative that following the meeting, families are provided with adequate reflection time.
- As identified earlier in this response, NDCS Cymru believes the section on timescales for preparing an IDP are unclear and require greater detail in order to ensure that the system is legally robust. It is also worth noting that, in consulting with deaf young people at Queen Elizabeth High School, they unanimously felt that two and a half months was a long time to wait for an IDP.
- Paragraph 320 states that delayed receipt of reports must not stop a local authority from producing an IDP. It states that the IDP will need to be reviewed once any outstanding reports have been finalised. However, more detail is required on the duty of local authorities to chase these reports and for a clear timeframe to be in place for the review of an IDP once these late reports have been received.
- NDCS Cymru strongly urges that paragraph 330 highlights that advice from external support services will be required for low incidence needs as well as for complex cases.
- As identified earlier in this response, NDCS Cymru considers to be weak the duty placed on public bodies at paragraph 340 to respond to requests for information.
- Paragraph 358, NDCS Cymru suggests that transport needs **must** (as opposed to “should”) be discussed with the child, child’s parent or young person where relevant.
- Paragraph 361. We would add that local authorities are likely to be responsible for the preparation of IDPs for low incidence needs such as deafness.
- Paragraph 365 outlines exceptions to the duty to favour the education of children at mainstream maintained schools. While it outlines the need to consider the wishes of the parent for specialist provision, it does not outline the need to consider the wishes of the child/young person. The learner may have strong views in this regard.

NDCS Cymru insists that this paragraph also includes the exception where mainstream maintained schools cannot provide the best outcomes for the child.

- Paragraph 373. NDCS Cymru is pleased to see hearing impairment listed as an example.
- Chapter 16, review and revision of IDPs. As with other sections of the Code of Practice, NDCS Cymru believes it is important to highlight the family's rights of appeal when notifying of a decision or a change.
- Paragraph 422. Where professionals have supplied advice in advance of the IDP meeting, this **must** be sent to the family (as opposed to “should”).

- Paragraph 440. As in other areas of the Code, it is necessary to specify “sufficient time” in order to secure a legally robust and transparent system.
- We would add transition to a new class or year group under paragraph 451. Indeed, it is imperative that new teachers are aware of learner needs and that new facilities/environments meet any access requirements.
- Paragraph 455. NDCS Cymru would add that ensuring the appropriate specialist professionals have been involved in the assessment and ensuring compliance with guidance and timeframes will also help local authorities to avoid disagreements.
- Paragraph 464. NDCS Cymru considers that the local authority **must** (as opposed to “should”) inform parties about disagreement resolution arrangements at relevant points in the process.
- Similarly, we would urge that the Code highlights the need to inform families of advocacy services at key points in the process.
- Paragraph 481. Advocacy services should be available to support families through the process of initiating and developing an IDP, not just when a problem has become apparent.
- As previously indicated, NDCS Cymru believes that, like paragraph 9.49 English Code of Practice, the Code should highlight the need to seek advice from a teacher of the deaf for hearing impaired learners.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

NDCS Cymru wishes to reiterate our concerns that within the draft Code it is largely schools which are to be the gatekeepers for determining whether an IDP is provided and which professionals should be invited to contribute to the IDP. It is important that statutory guidance clearly indicates the need for all deaf learners to be eligible for an IDP and for their assessment to involve specialist professionals such as a Teacher of the Deaf.

We are concerned that quality assurance of the new system seems to have been largely overlooked. The consultation highlights that Estyn will be asked to produce a thematic report in ALN, but NDCS Cymru considers that far greater inspection and quality assurance measures are required. As an example, we would suggest that:

- Estyn inspections of local authorities, schools and colleges have a specific ALN remit, as is now required of Ofsted.
- The tribunal report to the Welsh Government details appeals and any recurring issues in specific local authorities.
- The Welsh Government collates and monitors data on the attainment of pupils with ALN. At present, attainment data is collected and published by major SEN, but under proposals of

the Donaldson Review, data collation is set to change. Data on the attainment of deaf learners at FE is currently limited, but NDCS Cymru urges that steps are taken to improve the collection of this data as part of quality assurance measures.

- Families should be given the opportunity to provide service user feedback

Regional consortia could play a role in reviewing service quality.

-Local authorities could retain a responsibility to monitor/spot-check IDPs maintained by governing bodies.

NDCS Cymru considers that training for key staff will be imperative to the success of these reforms. As such, we would welcome further discussions with the Welsh Government over the format of these training programmes.

There is disparity between the draft Bill and the Code in referring to the school making a decision on the learner's needs and the Governors being responsible for these decisions. If the governors are to make such decisions, consideration will need to be given to training requirements.

NDCS Cymru would welcome greater clarity on cross-border issues. For example, how would the system operate where a learner resides in Wales but attends a school in England?

NDCS Cymru would welcome further information on how the Welsh Government intends to respond to its recent report *Workforce Planning on Special Educational Needs (SEN) specialist services (September 2015)*, which highlights difficulties in planning for specialist support services. Addressing these issues is an important part of ensuring that the new system operates effectively.

NDCS Cymru considers that the success of the new system will be largely dependent on training of individual professionals. As such, we would welcome more information on training of ALNCos and governors as well as information on raising awareness of the IDP among the general workforce who may be in a position to refer children and young people on for consideration of an IDP.

If, for school-aged learners, the initial request for an IDP is to be made to the school, where do referrals go during the school holidays? Should referrals be made to local authorities during this time in order to avoid delays to a learner's support?

NDCS Cymru would welcome further discussion around the Bill's provision to require the Welsh Government to create lists of non-maintained and independent schools and FEIs at which local authorities can place learners. NDCS Cymru has attached our submission to a previous consultation on the Education (Wales) Bill, which was originally intended to include this provision. As outlined in this response, NDCS Cymru is keen to ensure that a revised system is no less rigorous than current systems and structures. In particular, the existing section 347 application requires consideration of the qualifications of teachers employed to support pupils with a hearing impairment, visual impairment or a multi-sensory impairment (see *The Education (SEN) (Approval of Independent Schools) Regulations 1994, Schedule 1 parts 2 - 4.*) NDCS Cymru would urge that, in moving to a single system for registering and approving independent schools, the new application includes detail on the specific provision provided to pupils with SEN, including those with a sensory loss. We would also ask that inspections of such institutions include specific reference to the continued ability to meet the needs of pupils with additional learning needs.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Rhia Favero

Organisation (if applicable): ERIC, The Children's Bowel and Bladder Charity

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch

Support for Learners Division

Department for Education and Skills

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>

	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that the definitions of ALN and ALP reflect the intended focus on educational needs and that the draft Bill would deal properly with the age range it sets out to capture, however, if governing bodies and local authorities do not recognise certain conditions as disabilities we fear there will be children who will continue to be disadvantaged at school. In particular, children and young people who have continence conditions.

Continence problems are extremely common in children and can have a significant impact on children's ability to take part in school activities, but parents often struggle to get schools to recognise these problems as a disability. This is conflated by the fact that continence problems are often not diagnosed for a long time.

In a survey of young visitors to ERIC's website in 2012, 72% of respondents said their continence problems sometimes or always stopped them taking part in school activities, and 69% said they would not feel able to talk to school staff about their problem.

ERIC, The Children's Bowel and Bladder Charity has spoken to many parents whose children's education and life opportunities were affected by their continence problem(s). For example, is now 22 and is about to leave university, his mother is concerned about how his chances of getting a job will be affected by his lack of confidence, which is a direct result of years of suffering from daytime wetting and soiling accidents which made him withdrawn. She fears he will struggle to find work as he finds talking to people very difficult and interviews are 'his worst nightmare'.

As the draft Bill proposes to give governing bodies and local authorities greater powers to decide when a child has ALN, it is important that they receive guidance on how continence problems can prevent or hinder children and young people from making use of facilities for education and how this impacts on their education and life-long achievement. This will help governing bodies and local authorities recognise that continence problems are disabilities.

The Welsh Assembly should produce guidance to help governing bodies and education settings better understand children's continence problems, to recognise them as disabilities, and to help them manage continence in schools. This guidance could form part of the 'All Wales Children And Young People's Continence Guidance and Care Pathway'. ERIC has produced a document for helping education settings manage continence, which could be used as a basis for this guidance. This document can be found at <http://www.eric.org.uk/Campaigns/TheRightToGo> ERIC would be willing to help produce this guidance.

Information about prevalence of continence problems in children:

Up to 30% of children suffer from constipation and 1 in 20 children aged 9.5 suffer from daytime wetting – both of which are conditions which can significantly affect children's school life and attainment and which can have implications for them in later life.

Many children who suffer from bladder and bowel conditions suffer for years – 25% of children who take a laxative called Movicol for treating and managing constipation remain on the laxative beyond two years and some will have to take it into adulthood.

Constipation is particularly common in children on the autistic spectrum. Children with autism are more than four times as likely as their typically developing peers to have digestive difficulties such as abdominal pain, diarrhoea or constipation. However, autism is often not diagnosed for many years or until the child reaches adolescence.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree**Disagree****Neither agree nor disagree****Supporting comments****Question 3 – High aspirations and improved outcomes**

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree**Disagree****Neither agree nor disagree****Supporting comments****Question 4 – Increased collaboration**

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree**Disagree****Neither agree nor disagree****Supporting comments**

We are fully supportive of putting a duty on health bodies to give advice and information to parents which could help them ensure their child receives the additional learning provision that they are entitled to. We are also supportive of placing a duty on health bodies to inform parents of voluntary organisations that can also give advice and information to parents.

However, there needs to be a duty on health bodies to actively seek information about voluntary organisations that can help parents. If lots of parents need information, it is far more helpful and efficient for the health body to search for the relevant voluntary organisation and pass this information onto the parents than for each parent to have to search for this information themselves.

What's more, parents who do not have access to the internet may find it harder to search for voluntary organisations that can help them. If the health body does not know that a voluntary organisation exists, how can they be 'of the opinion that...it is likely to be able to give the parent advice or assistance'?

ERIC, The Children's Bowel and Bladder Charity is the only UK-wide charity dedicated to helping children and teenagers that have bladder or bowel difficulties, and their families. We run a helpline which provides emotional support and practical information to families and a website which provides information, resources and an online community that families can draw on to better understand their child's condition, how it can be managed, and what education settings can and should do to ensure their child gets the best education possible.

Many families do not find us until several years after their child first starts showing signs of a problem. They can spend many distressing years thinking they are the only ones suffering and not getting the appropriate treatment or assistance in education settings. If families were told about ERIC by a health body from an early stage, they could avoid years of frustration, distress and anxiety brought on by their child's condition and their child's condition could be treated from an earlier stage.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The information below has been included in the answer to question 1, however, because it doesn't necessarily relate directly to question 1, we have chosen to repeat it here.

The Welsh Assembly should produce guidance to help governing bodies and education settings better understand children's continence problems so that they can recognise them as disabilities, and to help them manage continence in schools. This guidance could form part of the 'All Wales Children And Young People's Continence Guidance and Care Pathway'.

ERIC has produced a document for helping education settings manage continence, which could be used as a basis for this guidance. This document can be found at

<http://www.eric.org.uk/Campaigns/TheRightToGo>

ERIC would be willing to help produce this guidance.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Alison Boulton CEO
Ruth Thomas Vice Chair Wales

Organisation (if applicable): Natspec

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	X
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that this wider definition better reflects the range of children and young people whose needs are being addressed in these proposals.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst we do agree with the statement we would urge you to consider one template for the IDP rather than local authorities creating their own.

In England the creation of different styles and starting points make the EHCPs (IDPs) complicated and lengthy. Added to this outcomes are often not educational, not measurable and too generalised. IDPs of 67 pages cannot be useful.

Having one style of plan would also reduce bureaucracy and encourage effective collaboration. Training and support on writing learning outcomes has started in England because English authorities have realised that they have a lack of expertise. This has been a complex situation.

Wales is in the fortunate position of being able to get this right from the start of the process, avoiding some of the stresses that young people and their families have experienced through the English process.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst we do agree we wish to highlight the degree of expertise required to protect and promote high quality post 16 high needs education.

With the loss of Connexions in England it seems that implementation has been planned and delivered by pre-16 and in many cases early years staff who do not have the adult insight and knowledge.

Without appropriate expertise, the important preparation for moving young people into fulfilling adult lives will not have taken place.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

This really needs to be about the aspirations and meeting the needs of young people. Value for money is important however we would encourage authorities to ensure they are looking holistically at this with education, social care and health talking and working together to plan long term outcomes rather than to protect their individual short term budgets.

Perverse incentives around cost-led commissioning rather than needs-led commissioning could be an issue unless all parties clearly understand the wider picture.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that the full involvement of parents and young people in the planning

process should reduce disagreements. It is important to ensure that all those involved have the skills, knowledge and resources to provide the same level of support in every area.

The proposal to require full co-operation from all parties to resolve any disputes that arise is positive; the supporting guidance must be clear about the importance of rapid resolution in order to reduce the stress levels on families and young people. Those involved in the process will require good skills and comprehensive training. There is a need for a genuinely impartial convenor/chair to manage this process once it is clear there is a disagreement and to ensure that it is dealt with in the timely fashion indicated in the consultation.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Code needs to include how it will hold those with duties to account. How will this be monitored, managed and sanctioned?

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We would like to see the funding for the very small number of high needs students be ring fenced within authorities.

We would like to express our interest in being involved in the task and finish group working on the Code and any other groups that impact on these reforms.

We also agree that ISCs should be registered with the Welsh Government. We are not sure what the standards/criteria would comprise of, or how they would stand in relation to the current Estyn common inspection framework. We would support the fact that the current common inspection framework regulated by Estyn provides an established, transparent set of standards that could be used.

Natspec, Association of National Specialist colleges, represents 76 member colleges and 8 associate members. Seven colleges are based in Wales and other colleges near the border also take Welsh learners. One of the border colleges has a satellite centre in Wales. These specialist colleges offer learning programmes and inter-

disciplinary support for students with a wide range of learning difficulties and disabilities. They give students a personalised learning experience tailored to their needs, abilities, aspirations and interests. Skilled inter-disciplinary teams, real living and work facilities and innovative use of technology enable students to thrive and reach their true potential.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Ellis Peters (Chair) on behalf of All Wales Paediatric Occupational Therapy Network

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input checked="" type="checkbox"/>
	Health professionals	<input checked="" type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that the terms ALN and ALP set out in the bill reflect the focus on educational needs, with the proviso that the code will provide very clear parameters on the level of need that will meet the term ALN and the level of need that falls below.

We disagree that the draft bill will deal properly with the age range it sets out to capture. We have concerns with regard to current service set up and the volume of change required to meet the ALN and ALP requirements, including capacity for service restructure and development, specifically in relation to 19-25.

We feel strongly that an opportunity is being missed to recognise the skill mix required to deliver ALN and ALP in a truly holistic and integrated way. The Bill acknowledges the additional skills and expertise required to manage ALN, but fails to fully recognise the key professionals who currently support the delivery of SEN.

Research and evidence supports the positive impact Occupational Therapy has on improving school performance. Currently the vast majority of Occupational Therapists for Children & Young People are employed by LHB's. Educational needs are unlikely to be viewed as a priority by the LHB's, this does not address the adversarial issues between Health and LA provision, to the disadvantage of the child and family.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We welcome the increased participation of the child and family and support the co-production and co-ownership of the IDP.

We do not feel the legal framework is sufficiently robust from a multi-agency perspective, see response to question 1. The Bill does not address the contentious issues currently experienced through SEN, particularly in relation to therapy provision.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We are unclear how this Bill improves the outcomes for children and young people beyond the existing legislation

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Disagree. The Bill acknowledges that LHB's can decline to sign up to the health provision in the IDP, where the need is felt not to be a priority for health. This therefore does not address the fact that agencies will continue to compartmentalise the child's needs in relation to their own priorities and remit. The artificial boundaries between the agencies can only truly be removed through integrated services and pooled budgets. There are risks associated with local agreement on funding and we are concerned this is not appropriate for a statutory provision; pooled resources must be a priority for this Bill if it is truly designed to meet ALN's in a child centred way.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We are not clear on how the Bill improves dispute resolution compared with the existing legislation.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Explanatory Memorandum, including the Impact Assessment were useful in clarifying the detail of the bill.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We feel we have covered key points in relation to these issues in our response.

There are many references within the Bill that acknowledge increased cost to the LHB's, has this been brought to the attention of the Minister for Health and what are the plans in place to address the impact?

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Dr Meg Shepherd

Organisation (if applicable): Newborn Hearing Screening Wales, Screening Division, Public Health Wales

e-mail/telephone

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
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	Third sector organisations	<input type="checkbox"/>
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	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Newborn Hearing Screening Wales (NBHSW) was implemented in Wales in 2004 with the aim of identifying babies with a hearing impairment of sufficient severity to cause or potentially cause a disability without the introduction of habilitation in infancy. The evidence considered by the Newborn Screening Committee before the introduction of the programme showed that the earlier support is provided, the better the child's outcomes in terms of communication, social and emotional well being and educational achievement. NBHSW welcomes the extended age-range which covers children whose needs will be identified early by screening and the concomitant recognition that these needs will require early support to limit their impact on the child. However, we would like to see a clearer vision for the way that health, education and other agencies will work together in the pre-school period and a more robust expression of the need for specialist input at all stages for these early identified children if the benefits are to be fully realised.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Robust mechanisms for multi-agency planning for hearing-impaired children 0-3 years have been developed over the decade since the introduction of newborn hearing screening. Led by health, but with a strong focus on sensory support services in education, they pull together the multi-disciplinary strands that are key to working with this age group. It would be good to see these written up as examples of good practice and for consideration to be given as to how the transition from health-led multi-agency support plans to the education-led IDP might be most effectively managed (perhaps with case studies from pilot sites).

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree

Disagree

Neither agree nor disagree

Supporting comments

Newborn Hearing Screening Programmes have been introduced in all the countries of the UK on the advice of the UK National Screening Committee. Screening programmes should not be offered as part of NHS care unless they are recommended by the NSC which applies defined criteria to the available evidence before making its recommendation. These criteria include the requirement to be able to demonstrate that early intervention is beneficial, and also the requirement to be able to provide this intervention at the time a baby is diagnosed. As a programme NBHSW promotes multi-agency working and integrated provision for babies and young children from the point at which they are identified with a hearing loss (this can be in the first few weeks of life).

Early identification needs to be allied to specialist, multi-agency input if the delays to communication, social and learning skills attendant on hearing impairment are to be minimised.

NBHSW welcomes the recognition of the importance of early identification allied to early and ongoing support. For the impact of early identification to be fully realised it is key that the support provided be timely, regular and delivered by appropriately trained and knowledgeable staff. This would include training in working with babies and their families as well as specific competencies relating to sensory loss. There are clearly funding and training issues which would need to be factored into medium and long-term planning and budgets.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree

Disagree

Neither agree nor disagree

Supporting comments

NBHSW welcomes the commitment to multi-disciplinary working from the point of identification.

We would also like to see a commitment to specialist input enshrined in the legislation and supporting guidance and documentation.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments**Question 6 – Supporting documents**

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

It would be useful to have more information on the role of the moderation panel and a more detailed working-out of the process for flagging additional learning needs. Greater clarity on how the ALN form should be completed; whether there should be multiple forms per child, completed separately by different members of the team or a single coordinated form representing the views of the whole team; how the moderation panel is constituted (i.e. is it multi-disciplinary in nature); how the moderation panel reviews the information on the ALN form, determines whether further information is required and gathers that additional information; how the moderation panel feeds-back its decisions to the referrers and the right to reply of those referrers. We also have some concerns about the function of the Designated Medical Officer/Dedicated Clinical Officer as a link between Health Boards and Local Authorities. Further consideration as to how these more generic roles would link in with specialists in the Health Board (e.g. SALT, Audiology) to ensure that information was as complete, accurate and relevant as possible would be helpful.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

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	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree		Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	
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Supporting comments

- The shift from the current terminology to ALN and ALP is a very positive step forward.
- The definitions of ALN and ALP set out in the draft Bill do reflect the intended focus on educational needs.
- In theory the draft Bill looks to deal properly with the age range 0-25. However, in reality more financial pressure will be placed on schools in order to provide support for pupils, post 16. With more demands being placed upon schools to provide interventions and less and less support being provided centrally it is going to make it increasingly difficult to support the large numbers of pupils with ALN effectively.
- Due to the use of the terminology of Additional Learning Needs as having 'a significantly greater difficulty in learning' will those pupils with moderate difficulties / mild dyslexia be overlooked and underfunded? How will the funding work if all pupils are on the same level and have an IDP?
- The interests of pupils with significant ALN will be better protected but will those pupils who previously had a Statement have a lower level of protection?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree		Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	
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Supporting comments

- Pages 6 & 7 of the draft Bill state that it will be the decision of the governing body to decide if a pupil has ALN and if they do, it will also be the responsibility of the governing body to prepare and maintain an IDP as well as securing provision for that pupil. Parents must be informed of the decision. Specific training regarding these issues will be needed.
- Currently a Statement of Educational Needs has more status than an Individual

Education Plan. However, if all pupils with an Additional Learning Need are to have an IDP regardless of their need, where is the robust staged approach?

- There is concern that under the new system parents will challenge day to day decisions that schools currently make with regards to ALN provision.
- If the young person does not wish to receive ALP nor indeed to have an IDP but the parent does want this to be put in place, how will schools manage these conflicting situations.
- Whilst we whole-heartedly agree that parents and pupils should be at the heart of the process, there is a concern that disputes may be more prevalent if the IDP is to be a legal document and hold the same weight as a statement.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

-The draft Bill requires that children will attend a mainstream school (not a special school) unless it is incompatible with:
a) the wishes of the parent; or
b) the provision of efficient education for other children.

It would be helpful to consider here the safety and emotional well-being of the pupil in question. If placing the pupil in a mainstream school will have a detrimental effect upon these two areas then huge consideration should be given to the placement.

It should also be noted that in some cases parents have wanted their child to attend a special school or specialist provision, despite the child not meeting the criteria. Therefore, there should still be robust entry criteria in place to ensure that the child attends mainstream school if they are able to and not be placed in a special school simply due to the wishes of their parents alone.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Wholeheartedly agree that a better approach to multi-agency working is desperately needed, but concerned regarding the reality of the situation.
- How will this be funded and managed?
- Will outside agencies (Health) be given the time to attend meetings?
- Sometimes Health professionals do not take into account educational factors and criteria. E.g. a doctor suggesting that a pupil should attend a special school, without knowing the LA's criteria for entry to a special school.
- If managed properly then it would make a very positive improvement to the current system.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- There is a lack of clarity.
- The code is still very much open to interpretation.
- There needs to be very clear training and support to enable schools to deal with any conflicts that may arise.
- The advice and guidance from the LA will be imperative in dealing with any issues.
- A national IDP and strict criteria for initiating and ceasing an IDP would be welcomed to avoid any risk of confusion between parents and schools which may lead to conflict.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

- In summary, our key concerns are-
- Current proposals to produce IDPs for each child, regardless of the level of need will mean more time being spent on administration tasks. This will have a big impact upon an already heavy workload and teaching commitments that ALNCOs have.
- There is concern that under the new system parents will challenge day to day decisions that schools currently make with regards to ALN provision.
- Very extensive training is needed to enable ALNCOs to work effectively under the new system.
- If all IDPs are statutory documents, managing the expectations of parents and the needs of pupils will become increasingly difficult due to the number of individuals involved.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Ffurflen ymateb**i'r****ymgyngoriad**

Eich enw: Arwel George

Sefydliad (os yw'n berthnasol): CYDAG

e-bost / rhif ffôn:

Eich cyfeiriad:

Dylid dychwelyd ymatebion erbyn 18 Rhagfyr 2015 i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol	<input type="checkbox"/>
	Arbennig	<input type="checkbox"/>
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliadau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliadau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau lechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliadau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliadau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>

Arall	<input checked="" type="checkbox"/>
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Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input checked="" type="checkbox"/>	Anghytuno	<input type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Dim sylw.

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Gweler ymateb llawnach o dan gwestiwn 7.

Mae'r rheidrwydd i ddarparu pob agwedd o'r hyn a geisia'r mesur ei gyflawni, ac yn enwedig yr agweddau sy'n ymwnued â sicrhau ymrwymiad llawn y plentyn a'r rhieni, trwy gyfrwng y Gymraeg neu'r Saesneg neu'n ddwyieithog, yn unol â'u dewis unigol, dal heb gael ei ddatgan yn hollol echblyq a chlir yng nghymalau perthnasol y Bil drafft.

Felly, ni fyddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU) yn unol â'r egwyddor sylfaenol o gynnwys plant a rhieni yn yr holl prosesau hyn.

Dylid gweu yr hawl hwn i mewn bob cymal perthnasol o'r Bil. Ni fyddai gwneud un datganiad ynysig yn ddigonol i sicrhau hawl unigolion. Ni fyddai chwaith yn troi'r Bil drafft o un sy'n anwybyddu'n llwyr hawl cyfartal o ran defnydd iaith plentyn neu

deulu i fod yn Fil Cymreig go iawn sy'n plethu natur ddwyieithog ein gwlad trwy holl gorff y Bil.

Ymhelaethir ar hyn o dan gwestiwn 7.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Gweler yr ymateb i gwestiwn 2 a chwestiwn 7.

Ni wneir yn amlwg o gwbl nac yn ddigon integredig trwy'r holl Bil drafft, y rheidrwydd ar i bawb a phob corff sy'n ymwneud â'r prosesau i gyd i weithredu er mwyn sicrhau yr hawl i bob plentyn a rhiant gael yr holl agweddau yn y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â'u dymuniad unigol.

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Fel y mynegwyd gan sawl un a fynychodd y digwyddiad ymgynghori yn Llandudno, mae llawer o fannau yn y Bil drafft lle mae yna dir llwyd ynglŷn â phwy neu pa gorff byddai'n gyfrifol am wahanol bethau. Bydd hynny'n glir iawn mewn achosion lle nad oes cytundeb rhwng teulu ac ysgol, rhwng ysgol ac ALI, rhwng ALI neu ysgol neu deulu gyda'r Bwrdd lechyd.

Yn wir mae leoliad y Bwrdd lechyd o fewn y fframwaith newydd yn un amwys. Does dim reidrwydd ar y Bwrdd lechyd i gytuno gyda phenderfyniad teulu/ysgol/ALI. Yn hollol annibynnol ac heb unrhyw atebolrwydd gall dorri cwys ei hunan. Nid yw hyn yn dderbyniol.

Yn y system bresennol mae llawer iawn o basio cyfrifoldebau yn ôl ac ymlaen rhwng cyrff gwahanol. Mae perygl y bydd hyn yn parhau ac yn arbennig felly mewn perthynas â'r diffyg i glymu'r Byrddau lechyd i mewn i'r gyfundrefn ac i gamau atebolrwydd tryloyw.

Byddai rhai yn dadlau, y gallai rhywfaint o hyn hefyd fod yn wir am wasanaethau

cymdeithasol.

Fel sy'n wir ar hyn o bryd, ac yn debygol o waethyg dros y blynnyddoedd nesaf, mae yna diffyg adnoddau gan Fyrddau lechyd a gan y Gwasanaethau Cymdeithasol. Bydd hyn, fel ag sy'n wir yn bresennol, yn arwain at oedi, dadlau a thanseilio cydweithio effeithiol rhwng gwahanol gyrrf.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'n debyg bydd y Bil drafft yn dileu rhai o achosion am anghytundebau sydd yn yr 'hen' drefn.

Fodd bynnag, gallai'n hawdd symud anghytundebau ymhellach i lawr y broses pan nad yw teulu ac ysgol yn cytuno os oes ADY gan blentyn ac, yna, unrhyw agwedd arall o'r prosesau y bydd yr ysgol yn gyfrifol amdanynt.

Anhawster arall all godi trwy rhoi mwy o gyfrifoldeb ar ysgwyddau ysgolion yw y gallai osod ysgol mewn sefyllfa lle mae yna wrthdaro diddordeb yr ysgol. Ar un llaw, mae'r ysgol yn gyfrifol am y broses ADY gychwynnol. Mae'r ysgol hefyd yn gyfrifol am osod cyllideb gyfreithlon (h.y. yn y 'du'). Lle bydd yna gost yn perthyn i ddarparu ar gyfer unigolyn gydag ADY gallai hynny greu tensiwn oddi mewn i gyd-destun ariannol cyffredinol yr ysgol. Mae hyn, wrth gwrs, yn fwy fwy perthnasol wrth i gyllidebau ysgolion grebachu.

Er bod sôn y bydd arian ar gyfer ADY yn cael ei ddosbarthu, gwneir hyn trwy'r grant bloc. Anodd, os nad yn amhosib, bydd y gallu i ddilyn llif yr arian o Lywodraeth Cymru i gyllideb ysgol unigol.

Cwestiwn 6 – Dogfennau ategol

A fydd ech cystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Y Memorandwm Esboniadol drafft

Fel gyda'r Bil Drafft ei hunan, mae'r Memorandwm Esboniadol Drafft yn llwyr anwybyddu natur ddwyieithog Cymru a hawl unigolion i ddefnyddio'r Gymraeg, Saesneg neu i gyfathrebu'n ddwyieithog yn ôl dymuniad yr unigolyn. Gan mae Bil sy'n deillio yn

Iwyr o Lywodraeth Cymru yw hwn, byddwn yn disgwyl i hawl sicrhau y defnyddir y Gymraeg a Saesneg, yn hollol gyfartal, yn unol â dymuniad plant, pobl ifanc a theuluoedd unigol dreiddio drwy gorff y Bil ym mhob cymal perthnasol ohono. Hefyd, dylid datgan yn glir bod yr hawl hwn yn egwyddor sylfaenol o fewn a thrwy'r Bil a'u holl fwriadau. Dylai'r Bil hefyd ddatgan ymhob cymal perthnasol bod angen i bob corff sy'n ymwneud â phob agwedd o'i weithrediad orfod gweithredu i sicrhau hawl ieithyddol hwn gan gynnwys ALLau, gwasanaethau cymdeithasol a'r byrddau iechyd a hynny'n ddieithriad. Wrth reswm, byddai hynny, wrth gwrs, yn amlygu ymhellach y diffyg yn y gweithlu o ran arbenigwyr megis therapyddion lleferydd a meysydd tebyg. Bydd gweithredu'r ddeddfwriaeth yn gofyn am fuddsoddiad pellach gan y llywodraeth i sicrhau bod y diffyg hwn yn cael ei adfer.

Mae yna adrannau amlwg o'r memorandwm lle y dylid fod wedi gweu i mewn yr hawl ieithyddol. Y pwysicaf o'r thai yw paragraffau 3.66 – 3.69 sy'n pwysleisio bwriad y Bil i 'gynnwys plant a [hob; ifanc] yn fwy, gan gynnwys eu rhieni a theuluoedd.

Y mharagraff 3.91-3.93, dylai'r hyn sydd i'w gynnwys yn y Cod Gorfodol nodi yn glir yr angen i weithredu'r hawl ieithyddol. Ni ddylid gwneud hyn mewn un datganiad cyffredinol, ynysig ond o fewn gwead y Cod cyfan ym mhob cymal perthnasol.

Yn yr adran 'Crynodeb o'r ymatebion' i'r ymgynghoriad. Mae CYDAG yn gresynu nad oes unrhyw sylw a wnaed gan CYDAG a chyrff eraill am y diffyg sylw a roddwyd i'r Gymraeg yn nogfennau blaenorol y Llywodraeth wrth ddatblygu'r Bil Drafft. Mae'n codi'r cwestiwn a ydyw'r Llywodraeth o'i goryn i'w sawdl yn wir ddeall oblygiadau gweithredu ei boliais iaith trwy ac ar draws pob agwedd o'i waith a'i ddeddfwriaeth. Mae'r diffyg sylw a roddwyd i hawl a statws cyfartal i'r Gymraeg a'r Saesneg yn yr holl ddogfennaeth drafft sy'n perthyn i'r Bil hwn yn awgrymu mai negyddol yw ateb i'r cwestiwn hwnnw.

Nid yw adran 7 yn rhoi unrhyw sylw i gostau o weithredu'r Bil yn hollol ddwyieithog yn unol â dymuniad plentyn, person ifanc neu deulu unigol. Ceir hefyd canfyddiad hollol annigonol p hyn hefyd o fewn yr asesiad o effaith penodol o ran y Gymraeg. Enghraifft, mae'r sylwadau uchod parthed diffygion yn y gweithlu yn amlygu'r angen am wariant newydd, ychwanegol os yw'r Llywodraeth am sicrhau bod modd gweithredu'r Bil yn llawn gan barchu'r hawl ac egwyddor i sicrhau statws cyfartal i'r Gymraeg a'r Saesneg. Yn yr adran yn ymwneud â 'Cyrff Eraill', does dim sôn am sicrhau bod y cyrff yma i gyd yn sicrhau hawl unigolion i ddefnyddio'r Gymraeg a'r Saesneg yn unol â'u dymuniadau unigol. Gresynir nad oes unrhyw sôn am yr angen i'r Tribiwnlys weithredu trwy gyfrwng y Gymraeg a'r Saesneg er mwyn sicrhau hawl ieithyddol unigolion. Mae hwn yn ddiffyg mawr yn y ddogfennaeth.

Mae'r adran 'Rhoi'r plentyn yn y canol' [paragraffau 7.195 - 7.197] Adran arall lle dylid datgan yn echblyg yr angen i sicrhau hawl unigolion i ddefnyddio'r Gymraeg, Saesneg neu weithredu'n ddwyieithog. Mae angen unioni'r diffyg hwn.

Dylai'r adran ar 'Gydraddoldeb' (para. 7.224 – 7.225) a 'Chonfensiwn y Cenhedloedd Unedig ar Hawliau Plant' hefyd gyfeirio yn echblyg am yr hawl i ddefnyddio'r Gymraeg neu'r Saesneg yn unol â dymuniad yr unigolyn.

Mae'r adran ar 'Y Gymraeg' [para. 7.254 – 7.257] yn bwysig ond, o ystyried y diffyg i sôn am yr iaith trwy wead yr holl ddogfennaeth, yn darllen fel rhyw atodiad gwirioneddol gwag a diystyr ac annifflant. Does dim un sôn am yr iaith Gymraeg yng ngeiriad y Bil Drafft o gwbl. Yn lle gosod adendwm diystyr ac ynysig fel hwn (7.254 – 7.257) dylid rhoi gwerth iddo trwy osod yr hawl i ddefnyddio'r Gymraeg neu'r Saesneg fel egwyddor hollol greiddiol i'r Bil hwn gan mai un o'i amcanion yw sicrhau cyfranogiad a rhoi rôl ganolog i blant a phobl ifanc fel egwyddor. Mae angen sicrhau hyn ar gyfer plant ifanc sydd ag ADY gyda'r Gymraeg yn famiaith iddynt. Yn yr un modd, mae angen yr un sicrwydd gyda phobl ifanc hŷn sudd ag ADY mwy difrifol.

Cyfeiria'r sylwadau canlynol at Atodiad A y memorandwm drafft.

Rhan 1 – Trosolwg: dylai Adran 1 – Trosolwg o'r Ddeddf hon nodi'r egwyddor o ddefnyddio'r Gymraeg neu'r Saesneg neu weithredu'n ddwyieithog fod yn egwyddor creiddiol o'r Ddeddf.

Dylai cymalau echblyg o'r hawl ieithyddol gael eu gweu i mewn i bob adran berthnasol. Byddai hyn yn cynnwys o leiaf yr adrannau canlynol: 6, 7, 8, 9, 10, 12, 14, 25, 26, 28, 29, 32, 37, 38, 39, 40 a 41.

Yr Asesiad o Effaith y Cod ar y Gymraeg: Gan nad yw'r Bil drafft yn cyfeirio o gwbl at yr iaith Gymraeg, mae'n anesboniadwy sut gall y ddogfen *Asesiad o'r Effaith ar y Gymraeg* ddatgan ar dudalen 9:

Bydd y Bil drafft hwn yn sicrhau y cynllunnir yn well ar gyfer anghenion dysgwyr ag ADY, gan gynnwys y rheini sydd mewn addysg cyfrwng Gymraeg, ac y bodlonir eu hanghenion yn well, a hefyd bod darpariaeth i fodloni ystod ehangach o anghenion yn cael ei diogelu'n statudol.

Cyfeiria paragraffau a sylwadau eraill yn yr *Asesiad o'r Effaith ar y Gymraeg* at y Cod sy'n mynd gyda'r Bil neu at ddogfennau a deddfwriaethau eraill lle y datgenir hawliau a rheidrwydd i weithredu'n bositif o ran y Gymraeg a gyda'r un statws â'r Saesneg.

Fodd bynnag nid yw'r Bil drafft ei hunan yn gwneud dim byd o'r fath. Felly, mae CYDAG o'r farn bod yr Asesiad yn gamarweiniol ac yn ffocysu'n annigonol ar gynnwys y Bil drafft ei hunan.

Y Cód ADY Drafft

Gan fydd y Cod yn un gorfodol, mae angen sicrhau bod pob agwedd o fuddiannau plant, pobl ifanc, rhieni a theuluoedd yn cael eu diogelu yn echblyg o fewn y Cod.

Pennod 1:

Para. 1 (ii) a (iii) ac eto para. 2. : mae angen datgan yn echblyg bod angen i bob agwedd o'r prosesau sy'n ymwneud gydag ADY fod ar gael trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â dymuniad yr unigolyn (h.y. plentyn, person ifanc neu rhiant/gwarcheidwad). Mae hyn yn cynnwys holl brosesau'r Tribiwnlys – does dim sôn o gwbl am hynny yn ddogfennaeth bresennol.

Pennod 2:

Para 14 – dylid cynnwys datganid clir o'r angen gorfodol i pob agwedd o brosesau ADY fod ar gael trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â dymuniad yr unigolyn.

Para 15, 17, 18, 19: unwaith eto dylid gweu i mewn yr angen gorfodol am statws gyfartal y Gymraeg a'r Saesneg.

Para 20: dylid nodi pwysigrwydd ystyriaeth dewis cyfrwng dysgu'r unigolyn wrth gynllunio symud i sefydliad/corff newydd.

Para 22-24 ac eto para 25: cynnwys barn, dymuniad a theimladau plentyn, rhiant neu berson ifanc a sicrhau eu cyfranogiad: mae'n hanfodol ac yn allweddol bod y Cod yn datgan yn glir bod angen i hyn ddigwydd yn y iaith y mae'r unigolyn yn ei ddymuno defnyddio.

Para 29 – 31: nid yw datgan hyn yn ddigonol. Rydym yn ymwybod y bydd gweithredu'r Safonau laith yn anghyson ar draws AIIau a chyrrf perthnasol eraill. Hefyd, o'r hyn ,mae CYDAG yn i ddeall, nid yw'r Safonau yn berthnasol i ysgolion a cholegau addysg bellach.

Pennod 3

Para 55: mae angen cynnwys yr orfodaeth bod y Swyddog Meddygol/Clinigol penodol yn gyfrifol am sicrhau mynediad i'r hol brosesau trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â dymuniad yr unigolyn,

Pennod 4

Para 58-67 o safbwyt pant a phobl ifanc a pharagraffau 68 – 78 o ran rhiant/gwarcheidwad: mae angen gwneud yn echblyg bod hawl gan y plentyn/person ifanc a'r rhiant/gwarcheidwad dderbyn pob agwedd o'r prosesau trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â'u dymuniad unigol.

Pennod 5

Para. 81 – 90 a pharagraff 91: Yn yr un modd ac ar gyfer Pennod 4, mae angen sicrhau datganiad clir am hawl ieithyddol yr unigolyn.

Pennod 6: para. 115: angen newid 'language' i 'languages'

Pennod 7:

Mae angen i'r cyrff iechyd ddarparu pob agwedd o'u mewnbwn trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â dymuniad yr unigolyn.

Pennod 9: mae angen datgan yn glir yr orfodaeth ar yr ALI i ddarparu pob agwedd trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â dymuniad yr unigolyn.

Mae hyn yn arbennig o wir parthed para. 211 – 214

Pennod 10 :

Para 247 (v): angen newid 'language' i 'languages'.

Para 248: mae hyn eto yn atgyfnerthu'r angen i'w wneud yn echblyg yr hawl i ddefnyddio'r ddwy iaith fel y dymuna'r unigolyn.

Para 251: dylai'r disgrifiad o'r ddarpariaeth gynnwys dymuniad yr unigolyn o ran cyfrwng y ddarpariaeth.

Pennod 11:

Para 267 - 269: fel mewn adrannau tebyg mewn mannau eraill o'r Cod, mae angen ei wneud yn echblyg am yr hawl ieithyddol yn unol â dymuniad yr unigolyn.

Para 283: ditto para 267 – 269.

Pennod 12

Para 305 -307: angen datgan hawl cyfartal o ran dewis iaith yr unigolyn.

Para 309: mae angen gorfodi'r dystiolaeth i fod yn y Gymraeg, y Saesneg neu'n ddwyieithog

Para 323: ditto para 267 – 269

Pennod 14

Trafnidiaeth :

Para 358: mae angen grymuso hyn i osod cyfrifoldeb ar yr ALI i 'hybu mynediad i addysg trwy gyfrwng y Gymraeg'

Pennod 15

Pan yn ystyried lleoliad addas ar gyfer bodloni Cynllun Datblygu Unigolyn, dylid bob amser ystyried cyfrwng yr addysg gan ddiogelu dymuniad yr unigolyn i gael mynediad i addysg cyfrwng Cymraeg, Saesneg neu ddwyieithog.

Pennod 20

Does di, sôn yn unman yn yr hol ddogfennaeth am yr angen i sicrhau gwasanaeth trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â dymuniad yr unigolyn. Mae hwn yn ddiffyg sylfaenol yn y drafftiau presennol.

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanynt.

Yn gyntaf, mae CYDAG o'r farn bod yna lawer i'w gymeradwyo yn y Bil drafft hwn. Yn gyffredinol mae'n gwella'r fframwaith a'r prosesau sy'n ymwneud ag Anghenion Dysgu Ychwanegol (ADY) o'u cymharu gyda'r hyn sydd mewn bodolaeth ar hyn o bryd.

Fodd bynnag mae CYDAG am gyflwyno'r sylwadau canlynol a gaiff eu trafod yn helaethach yn yr ymateb hwn:

- Mae yna ddiffyg sylfaenol yn y Bil drafft. Mae wedi hepgor yn llwyr unrhyw sylw at natur ddwyieithog Cymru – does dim sôn o gwbl am yr hawl i wneud defnydd cyfartal a chydwerth o'r Gymraeg a'r Saesneg nac i gynnal prosesau yn ddwyieithog
- Hefyd, er bydd y Bil yn lleddfu rhai o anawsterau a phroblemau'r sefyllfa bresennol, fe allai arwain at symud problemau o lle maent ar hyn o bryd yn y broses i fan arall.
- Cynyddu llwyth gwaith ysgolion ac, yn benodol, yr unigolion bydd yn y rôl Cydlynnydd Anghenion Dysgu Ychwanegol (CADY).
- Anghenion hyfforddiant sylweddol ar bawb a fydd ynghlwm â gweithredu'r Bil drafft ar lawr gwlaid: Ilywodraethwyr, Cydlynwyr (CADY), athrawon a staff cynorthwyo, ALI a phob corff allanol mae'r Bil yn cyfeirio atynt
- Wrth newid rôl ysgolion ym mhrosesau ADY, mae'n eu gosod nhw mewn sefyllfa lle bydd yna dyndra o ddiddordeb
- Ariannu digonol
- Asesiad o'r Effaith ar y Gymraeg

Y GYMRAEG

Nawr bod gan Lywodraeth Cymru'r pwerau i greu deddfwriaeth ei hunan mewn rhai meysydd o gyfrifoldeb a ddatganolwyd o Lywodraeth y DU i'n Llywodraeth ninnau

ying Nghaerdydd, mae yna ddisgwyliad bod y ddeddfwriaeth a gynhyrchrir yn adlewyrchu ein hunaniaeth ni fel gwlad a chenedl.

Fodd bynnag, trist yw gorfol datgan fod y Bil drafft hwn yn fethiant llwyr yn hyn o beth.

Pam? Does yr un cymal yn y Bil drafft sy'n sôn am natur ddwyieithog ein gwlad. Mae hynny'n wir drwy'r Bil drafft cyfan. Mae'n arbennig o wir yn y mannau o'r Bil lle mae'n cyfeirio at gynnwys plant, pobl ifanc a rhieni mewn unrhyw rhan o'r fframwaith a'r prosesau sy'n ymwneud ag ADY.

Dylai'r Bil ddatgan, fel un o egwyddorion sylfaenol y ddeddfwriaeth, bod gan bob plentyn, person ifanc, rhieni a theuluoedd yr hawl i gael pob ac unrhyw agwedd o brosesau'r Bil trwy gyfrwng y Gymraeg, y Saesneg neu yn ddwyieithog yn unol â dymuniadau'r unigolion.

Dylai'r hawl hwnnw fod ar gael o gychwyn y broses o benderfynu os oes gan unigolyn ADY ynghyd â'r prosesau byddai'n dilyn i ymateb i unrhyw ADY a thrwy gydol y broses hyd at y terfyn mewn achosion a fydd yn cyrraedd y Tribiwnlys.

Ar hyd y daith, dylai fod yn orfodol ar i bob corff sy'n ymwneud â'r prosesau sicrhau yr hawl i ddewis iaith/ieithoedd y drafodaeth gan gynnwys unrhyw ddogfennau neu dystiolaeth.

Y lle i osod datGANIADAU EGWYDDOROL SYLFAENOL O'R FATH YW YMHOB ADRAN A CHYMAL O'R BIL EI HUN AC NID MEWN UNRHYW DDOGfen ARALL MEGIS MEMORANDWM NEU GOD.

Heb wneud hynny, mae'r Bil drafft yn darllen fel Bil ar gyfer unrhyw wlad uniaith Saesneg lle nad oes unrhyw iaith sydd â hawliau cyfwerth a chyfartal fel sy'n bodoli rhwng y Gymraeg a'r Saesneg yng Nghymru.

Yn ogystal â datgan yr egwyddor sylfaenol o ran cael dewis ymwneud â fframwaith a phrosesau ADY trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog, dylid hefyd osod cymalau holol glir i'r un perwyl ym mhob adran a chyMAL perthnasol o'r Bil. Yr adrannau mwyaf amlwg (er nid yn holl gynhwysfawr) yw'r adrannau hyn:

- Cyfranogiad a mynediad i wybodaeth (para 6 i 7)
- Llunio a chynnal cynlluniau datblygu unigol
- Anghytundebau ac apeliadau (para 37 i 44)
- Atodol (para 45 53) gan gynnwys gwneud yn orfodol i bob corff allanol yn ogystal â'r ysgolion, colegau ac ALI, i ddarparu gwasanaeth, tystiolaeth a chyngor trwy gyfrwng y Gymraeg, Saesneg neu yn ddwyieithog yn unol â dymuniad unigolion a theuluoedd.
- Cyffredinol (para 54 i 55)
- Tribiwnlys Addysg Cymru (para 63 i 65), fel sy'n wir am y Bil drafft drwy'r trwch, does dim un sôn am yr angen i sicrhau yn bydd y Tribiwnlys yn gweithredu trwy gyfrwng y Gymraeg, y Saesneg neu'n ddwyieithog yn unol â dymuniad pob achos unigol a ddaw gerbron.

Symud anawsterau a phroblemau

Mae'r Bil yn ceisio lleihau neu waredu anawsterau sy'n codi wrth weithredu o dan y drefn bresennol. Mae hynny, wrth reswm, i'w gymeradwyo

Fodd bynnag, cred CYDAG bod y Bil yn cymryd safbwyt gor-optimistaidd o ran y raddfa y bydd yr anawsterau a'r problemau yn lleihau.

Mae'r Bil yn symud llawer o'r cyfrifoldebau o du'r ALI i'r ysgolion. Mae yna ddau sylw i'w gwneud.

Yn gyntaf, un o amcanion y Bil yw creu mwy o gysondeb gweithrediad ar draws yr AIIau. Hyd yma, gwelwyd bod yna anghysonderau yn y modd mae'r AIIau wedi bod yn gweithredu. Fodd bynnag, mae'r Bil yn symud y cyfrifoldeb o benderfynu a oes gan blentyn neu berson ifanc ADY o'r ALL i'r ysgol. Yr ysgol bydd hefyd yn gyfrifol am benderfynu ar y ddarpariaeth fydd ei angen ar gyfer unrhyw blentyn ag ADY. Felly, o ran y sector uwchradd yn unig, mae hynny yn golygu dros 200 o wahanol ddehongliadau lle gynt roedd yna 22 ALI.

Mae hyn yn arwain ymlaen at y sylwadau nesaf.

Cynyddu llwyth gwaith ysgolion ac, yn benodol, yr unigolion bydd yn y rôl Cydlynnydd Anghenion Dysgu Ychwanegol (CADY)

Mae'n amlwg y gallai hynny arwain at fwy o anghysonderau a mwy o achosion o wrthdaro rhwng teuluoedd ac ysgolion.

Bydd hyn oll yn golygu cynnydd sylweddol yn llwyth gwaith ysgolion, ac yn benodol pob Cydlynnydd Anghenion Dysgu Ychwanegol (CADY). Bydd rôl y CADY yn un sylweddol iawn, iawn. Yn wir, mae'r swydd ddisgrifiad a gynhwysir yn y Cod, yn awgrymu'n gryf y bydd yn swydd llawn amser. Tra bod hynny eisoes yn wir yn ein hysgolion mwyaf, nid yw bob amser yn wir yn ein hysgolion uwchradd llai (heb sôn am yr ugeiniau o ysgolion cynradd bychain sydd yng Nghymru). Bydd yna oblygiadau staffio, ac felly cyllidol, ynghlwm â gweithredu gofynion sylweddol y Bil drafft.

Hyd yn oed mewn sefyllfa lle mae, neu y bydd yn bosib, penodi person llawn amser i rôl y CADY, bydd gallu ac amser y person hwnnw i ymwnaeth yn uniongyrchol ag addysgu yn brin iawn, iawn.

Anghenion hyfforddiant sylweddol ar bawb a fydd ynghlwm â gweithredu'r Bil drafft ar lawr gwlaid: Ilywodraethwyr, Cydlynwyr (CADY), athrawon a staff cynorthwyo, ALI a phob corff allanol mae'r Bil yn cyfeirio atynt

Mae'r Bil drafft yn golygu newidiadau sylweddol a sylfaenol i'r holl gyfundrefn ADY.

Er mwyn sicrhau gweithrediad llwyddiannus y Bil bydd angen buddsoddiad sylweddol i osod hyfforddiant trylwyr yn ei le ar gyfer pob rhanddeiliad a nodir uchod.

Mae'n amlwg bod yna angen ariannu sylweddol i wneud hyn yn ogystal â dod o hyd i'r amser o ansawdd bydd ei angen ar yr hyfforddwyr a'r rhai bydd yn derbyn hyfforddiant.

Mae yna ddu ddimensiwn i'r hyfforddiant. Yn y lle cyntaf, bydd angen ton fawr o hyfforddiant wrth drosglwyddo o'r gyfundrefn bresennol i'r un newydd – ni ellir tan fesur maint yr honno.

Yn ail, bydd angen hyfforddiant treigl parhaus i sicrhau bod yr holl rhanddeiliaid ar draws yr ystod lawn o gyrrf yn medru hyfforddi staff ac aelodau newydd fel mae'r gweithlu'n newid ac aelodau newydd yn ymuno â chyrrf.

Yn achos ysgolion, rhaid i'r Llywodraeth sylweddoli mai dim ond un darn swmpus o agenda newid mwy swmpus fyth yw ADY. Mae'r gyfundrefn yn wynebu cyfres niferus o heriau mawrion eraill gan gynnwys cyflwyno meysydd llafur newydd ar gyfer TGAU Uwch Gyfrannol a Safon Uwch yn ogystal â chydio yn yr agenda heriol iawn y mae adroddiad *Dyfodol Llwyddiannus* yr Athro Donaldson yn ei osod.

Ni ellir gorwysleisio cymaint o her yw hyn oll i Lywodraeth Cymru ac i'r holl rhanddeiliaid ac yn enwedig yr ysgolion a'u hathrawon.

Wrth newid rôl ysgolion ym mhrosesau ADY, mae'n eu gosod nhw mewn man sefyllfa lle bydd yna tyndra o ddiddordeb

Mae'r Bil yn gosod y cyfrifoldeb o benderfynu a oes gan blentyn/disgybl ADY ai peidio. Os penderfynir fod gan unigolyn ADY, yr ysgol bydd hefyd yn gyfrifol am lunio Cynllun Datblygu Unigol ynghyd â phenderfynu ar ba adnoddau bydd eu hangen i fodio'r Anghenion ac i weithredu'r ddarpariaeth.

Ond yn y cyfnod presennol, a'r blynnyddoedd nesaf, mae'r ysgolion, a'r gyfundrefn addysg yn gyffredinol, yn dioddef toriadau i'w cyllidebau. Bydd eu sefyllfa oedd cyllidol yn rhai anodd iawn.

Gallai hynny greu tyndra o ddiddordeb rhwng bod yn gyfrifol am y prosesau ADY ar un llaw, a llunio a gweithredu cyllidebau cyfreithlon (h.y. yn y 'du') ar y llaw arall. Bydd hynny'n gosod ysgolion mewn sefyllfa anodd. Fe all hefyd fod yn wreiddyn anghydfod a gwrtedaro rhwng ysgol a theuluoedd.

Ariannu

Eisoes mae'r sylwadau uchod wedi cyfeirio at yr angen am ariannu digonol i wireddu dyheadau'r Bil o osod cyfundrefn well yn ei lle.

Nid yn unig y bydd angen am ariannu digonol ond, hefyd, sicrhau y bydd modd adnabod pa gyllid a fwriedir ar gyfer gweithredu'r Bil yn y Grant Addysg Gyffredinol a sicrhau llwybrau archwilio clir o hynny drwy'r gyfundrefn o'r Llywodraeth lawr i'r ysgolion unigol.

Os na wneir hynny, bydd yn anodd i ysgolion weithredu mor effeithlon ag y mae'r ariannu a fwriadwyd gan y Llywodraeth yn ei ganiatáu. Hefyd, os na ddosrennir yr

arian mewn modd tryloyw gallai hynny arwain at anghysonderau o ran gallu ysgolion unigol i wneud eu gorau dros eu plant a'u disgylion.

Asesiad o'r Effaith ar y Gymraeg

Gan nad yw'r Bil drafft yn cyfeirio o gwbl at yr iaith Gymraeg, mae'n anesboniadwy sut gall y ddogfen Asesiad o'r Effaith ar y Gymraeg ddatgan ar dudalen 9:

Bydd y Bil drafft hwn yn sicrhau y cynllunnir yn well ar gyfer anghenion dysgwyr ag ADY, gan gynnwys y rheini sydd mewn addysg cyfrwng Cymraeg, ac y bodlonir eu hanghenion yn well, a hefyd bod darpariaeth i fodloni ystod ehangach o anghenion yn cael ei diogelu'n statudol.

Cyfeiria paragraffau a sylwadau eraill yn yr Asesiad o'r Effaith ar y Gymraeg at y Cod sy'n mynd gyda'r Bil neu at ddogfennau a deddfwriaethau eraill lle y datgenir hawliau a rheidrwydd i weithredu'n bositif o ran y Gymraeg a gyda'r un statws â'r Saesneg.

Fodd bynnag nid yw'r Bil drafft ei hunan yn gwneud dim byd o'r fath. Felly, mae CYDAG o'r farn bod yr Asesiad yn gamarweiniol ac yn ffocysu'n annigonol ar gynnwys y Bil drafft ei hunan.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrwyd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:



Consultation response form

Your name: Bernadette Byrne

Organisation (if applicable):
Wales Pre School Providers' Association

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	x <input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill should be with a capital B throughout the consultation response

Wales Pre School Providers' Association supports the introduction of the term ALN and ALP as set out in the draft Bill. However, there is a change of title but not a change of purpose within the Bill in that it does not acknowledge or reflect the broader learning experiences that are essential to a child's development and especially learning through play.

The Bill is intended to encompass children from the 0 to 25 age range but Wales Pre School Provider's Association is concerned that this Bill does not address the needs of the full age range it sets out to capture.

Throughout the Bill and supporting documentation, there is an intention to promote the early identification and early interventions for a child with additional learning needs in order to achieve the best outcomes for children who would currently have an educational statement in place, or who would currently be on School Action /School Action Plus plans. However, the draft Bill appears only to address children who attend maintained educational provision (Maintained Nursery Schools, Primary etc). The Bill states 'the Additional Learning Provision for a child aged under 3 means educational provision of any kind.' The Bill's focus is on education there is no reference to childcare even for a child under 3 years which is a concern. The bill is not clear as to how Local Authorities and other agencies are to address those children who have not yet accessed a maintained education setting or those who have not reached their early entitlement to nursery education prior to the age of 3 yrs.

Although it states 'regulations may amend this section to replace the references to the age of 3 with references to a different age' The age range should encompass children aged 0-2years.

If the bill really is intended to make it a duty for local authorities to be proactive rather than reactive through early interventions for better outcomes for children and their families, then this needs to be addressed and strengthened in the proposed legislation. The earliest a child is able to attend a maintained education curriculum through school is the term after their 3rd birthday. However, these children can also access early education entitlement through the non-maintained local authority approved foundation phase childcare providers. Children with disabilities, behavioural issues etc are sometimes unable to attend maintained school until the needs for the child have been identified and additional resources needed are put in place. If they are in the non-maintained sector or indeed, if they have been unable to

attend any setting due to a lack of resources, this can take as long as the term after the child's 5th birthday when authorities have a statutory obligation to provide an educational place for every child. Primary schools are sometimes unable or unwilling to accept children without the additional resources necessary to manage the child's needs within a busy school environment. When children with additional needs begin attending school nursery or reception class without the support required, this often has a negative and detrimental impact on both the child and their family. Children with additional needs may well be delayed in their self-care skills development. If a child cannot take their coat off or put it on without support or if they have not managed to become aware of needing the toilet and frequently have soiling incidents due to developmental delays, these issues will be stigmatizing and difficult for them and can have a significant impact on their disposition for learning while creating an unhelpful relationship with the school and parents.

Wales Pre school Providers' Association is aware of children who have begun their nursery education in the maintained sector, but who have subsequently been delayed, had their hours of attendance reduced or even excluded (asked not to attend) until the appropriate resources are in place to properly manage the child's additional needs.

The Early Years Entitlement can be delivered through the non-maintained approved education childcare providers or other childcare provision as well as in maintained provision. Where they can access funds through specialized grants to support children with ALN, the non-maintained sector does an excellent job of supporting these children and families. It is disappointing that there is no mention of the important contribution this sector makes to the early experiences of children and their families in the draft bill and no legislation to ensure that they are supported to deliver this essential work throughout Wales.

As well as children with ALN accessing their early year's entitlement, children prior to this age range are also not considered in the draft bill in order for them to have essential play and development opportunities within their communities through play in sessional care settings. The bill expressly mentions that it is aimed at 0-25 yet does not say how children under the age of 3 will be encouraged to learn and play alongside their peers by attending a nursery, playgroup or childminder childcare provision before the Early Years entitlement is available to them. It cannot be assumed that the Flying Start initiative will meet this need as it is not a universal service only supporting families within specific geographical postcodes. Children with ALN can come from any demographic community across Wales. Children, especially in the very early years 0-7, will learn thorough playing with their peers supported by well-trained practitioners in partnership with their parents. This is the underpinning principle of the Welsh Government's Foundation Phase initiative. The Bill does not make it clear as to what arrangements will be made in order for ALN children to have an equal right to access play opportunities outside of the school environment for example in afterschool and extracurricular play clubs and holiday clubs which serve to further enhance children's development. Article 31 of the United Nation Convention on Rights of the Child states that all children have the right to play.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Wales Pre school Providers' Association welcomes a robust legal framework for the preparation, maintenance and review of Individual Development Plans. However, the need for a template to be produced that cuts across all services (i.e. Education, Health and Social Services in particular) and that does not vary considerably from one local authority area to another or from agency to agency is needed to support this new framework to achieve a standardised approach to support.

The template needs to be portable. We appreciate that this will be a challenge as not all services use the same terminology or if they do, it has different meanings between organisations. This could be devised to have different sections that are age appropriate and therefore acknowledges the different issues for pre-school children 0 to 4 years, those of primary school children 5 to 11 years, secondary school children 11 to 16 years and those leaving school and continuing in studies into adulthood 16 to 25 years. When IDP's are reviewed between the different age ranges (i.e. from pre-school to primary) and the new IDP differs considerably in the support levels, especially where the support is reduced, the reasons for this must be clearly identified and agreed by all parties including the child and their parents. The intention to involve children and their parents in the whole decision making process may have a positive impact on the current climate of mistrust and lead to the need for less formal disagreement resolutions between the parties.

The Code of Practice recognises that parents are a key partner and professionals will need to actively seek to work with them and value the contribution they make. It is positive to see that the code will support and empower parents to provide their views, wishes and feeling and take an active part in the process.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Wales Pre School Providers' Association has concerns that the emphasis on a Local Authority or School Governing body to 'decide if a child has an additional learning need' or 'decide that a child does not have additional learning needs' could have repercussions. The legislation does not safeguard the needs of the child above those of budget and resource restrictions. Wales Pre School Providers' Association

believes that this would be better decided by an independent advocate (possibly in the third sector) who would co-ordinate a referral to a multi-agency panel which includes members of the third sector organisations relevant, to ensure that any decision not to prepare and maintain an individual development plan is fair and in the child's best interest.

The high aspirations and improved outcomes desired are only going to be achieved if *all children*, from those with complex needs to those with developmental delays or different learning needs (e.g. dyslexia, specific learning needs etc) have access to the support needed at the earliest opportunity. We are concerned that each local authority will have the ability to vary the threshold for access to an IDP and that this threshold will be driven by budgets. This advocacy is only introduced in the bill at the conflict resolution stage and appeals stage. If the independence afforded by a third sector organisation was introduced at the earliest opportunity, it could lead to fewer disagreements and foster improved relationships between the child and their parents and statutory agencies.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill provides the basis for an improvement in the way that LEA's and Health Authorities work together with children who have ALN. Wales Pre School Providers' Association believes that this should be strengthened to include a multi-agency approach and that this should include childcare and play organisations for children up to 12 years old in line with the current changes to registration for childcare that come into force in April 2016. Childcare and play settings can make a valuable contribution to the learning and development of all children and especially those at risk of social isolation due to their ALN.

The Impact Assessment evidences that a wide range of stakeholders are responsible for children and young people with ALN or who represent their interests including school practitioner panel, Senco groups, Estyn etc. This should also include CSSIW as they are the inspectorate for Wales for the non-maintained and in-light of the changes will be undertaking joint inspections with Estyn.

The Code of Practice recognises that a multi-agency approach will help with the identification of the potential existence of ALN including Flying Start staff, childcare providers, pre-school settings staff and others.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Wales Pre school Providers Association fully supports the desire to avoid disagreements with the IDP's produced and improving the process of agreeing the IDP. We welcome the draft Bill's intention for there to be a clear and consistent right of appeal. This appeal process needs to be dealt with and resolved as soon as possible and not in a way that by the time a resolution has been agreed, that the child's circumstances have changed and the whole process has to begin again. We would welcome the intention for independent advocacy services to be available for families and the 'Case Friends' section of the draft Act. Indeed, we would like to see that this is independent advocate is introduced at the earliest stage of this process rather than wait until a conflict has arisen. This would also improve access to services for children whose parents are unable to advocate on their behalf. There is concern that someone directly employed by the local authority or health would be mindful of their employer's budget restrictions rather than the needs of the child for whom the IDP is taking place.

Wales Pre School Providers' Association would support the Educational Tribunal having the powers to collect data and call to account sanction persistent 'offenders' (i.e. Local Authorities, Health Boards etc) that have a higher than average appeal rate.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

In summary, the current draft Bill :-

- Is a change of title rather than a change or purpose.
- Pre-school children and play are absent from this legislation.
- Does not mention in the supporting documents details of the investment that the Welsh Government put in to the Early Support programme.

- Third sector, early years , childcare and play organisations are largely absent from inclusion in the current Bill yet provide essential learning opportunities for all children but especially those at risk of social isolation due to their additional needs.
- Pre-school childcare and play is absent from the legislation, yet this is an important learning opportunity for the child and can offer valuable support and respite for families.
- Does not propose or include a template for the proposed IDP allowing considerable variation from Authority to Authority.
- Independent advocacy is only legislated for once a disagreement has arisen and we believe that this should be a right for children and families from the beginning of the process.
- Following on from this, Wales Pre School Providers question the focus of schools and local authorities with the decision to commence an IDP and the process of review and renewal especially during transition from the pre-school sector into the maintained sector and is concerned that this may be dictated by budget restrictions.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: **Philip Harding**

Organisation (if applicable):

Cardiff and Vale Parents Federation

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
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	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Definitions

The Cardiff and Vale Parents Federation (CVPF) represent 1200 families within our area and consider that the definitions are too focussed on educational learning rather than the lifelong learning that is required for persons with learning disabilities (LD). It seems to us that it leaves persons with LD somewhat at the cliff edge at the age of 25 and we would welcome a more extended pathway through diagnosis, transition and into adulthood and the continuous learning that is particularly necessary for citizens with LD.

The IDP should be a statutory provision beyond the age of 25 enabling that continuous development.

Age range

From a purely educational perspective there is clarity provided by the 0-25 stipulation and the transition process, which can be a nightmare for families if planning is not embraced early, should be improved.

The ANCO role appears to be crucial and resilience will need to be built into the system to ensure that this person is not overloaded....perhaps this should be a small team, at each key point???

We have found that a full partnership of all organisations supporting the citizen with LD is often hard to achieve and we wonder if there should be a clearer identification of the role and responsibility of the Local Health Board from diagnosis onwards...???

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Does the Bill create a legal basis for the IDP to be considered as a lawful document establishing an educational and developmental plan that is robust enough to withstand legal

challenge...??

We are not sure that is the case.

Also there appears to be no template of an IDP to establish good practice.

The cornerstone of this “unified planning process and increased participation by children and young people”.... must be Person Centred Planning (PCP) and again as for our concerns about resilience in Qu. 1, there must be comprehensive training provided for all staff concerned in the process, backed up by an Inspection framework that supports the good ideals of preparation, maintenance and review detailed within the document, and that will establish a consistency of application across Wales.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Social Services and Wellbeing Act promotes wellbeing, happiness and a fulfilled life for the people of Wales.

Implicit within those ideals are the right to employment leading to a good quality of life and the personal fulfilment and self esteem that can be realised by a well balanced life of employment, leisure and social ease.

The educational focus and narrow limit of 0-25 does nothing to promote the right to employment for our citizens with LD or indeed promote any employment links or initiatives. In order to be truly person centred then the approach within this document should be to establish a path to true citizenship, where people with LD can explore options to employment after the age of 25, or indeed earlier, should they so choose, and be able to contribute to society and feel valued for that contribution; rather than the cliff-edge approach that is the current norm once they leave education and for which this document provides no relief or solution.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Purely considering the narrow educational focus of the Bill then if all the agencies work together on a Person Centred basis then there should be a consequent improvement for young people. But is there a legal requirement within the document to adopt a Person

centred approach...????..... there should be!

And a true person centred approach should take into consideration the health, emotional and all the other needs that are necessary to support a person with LD; and this needs to be supported by legal duties placed on all those agencies. There appears to be legal duties regarding education of the person with LD, but not for those areas of support such as health.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

We welcome the efforts within the draft Bill to improve the process around disagreement, resolution and appeals recognising from the feedback of our members that there can be an agonising breakdown of trust between families and local authorities, to the detriment of all, but particularly children and young people with LD.

Although we are unable to comment on how robust the legal frameworks are.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

No further feedback thanks

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We have tried to identify our issues of concern already in answering your questions...thank you for the consultation which allows us to make comment

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Sallie Durbridge (Chair) submitting responses on behalf of the membership of BATOD Wales

Organisation (if applicable): British Association of Teachers of the Deaf Wales Region (BATOD Wales)

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

ALN – definition is clear, clarifies groups of learners. Preferred term as deafness is not a SEN, it is a medical condition i.e. a physical disability not a learning difficulty.
(Some concern that the word 'additional' might be interpreted as meaning an additional burden).

ALP – definition is clear with positive focus on learning.
There will be a substantial increase in training needs required by staff in schools and colleges with regard to the proposed changes; this will impact on the capacity of Teachers of the Deaf to plan and deliver services in order to support this change.

0-25yrs The continuity of an IDP across the age range 0-25 will give consistency particularly during transition from one stage/establishment to the next. This is a positive move towards planning and meeting the needs of CYP with ALN.

*Post 16 – The requirement for teachers of the Deaf to work with increased age range will impact on resources, staffing, budget. There is no designated funding within LAs to meet the needs of the 16-25 age range and very few FE colleges have access or choose to have access to a TOD. Service provision will be required to extend across the age range and take account of an increase in numbers of CYP requiring a service. Most HI services are already stretched to capacity. The LA has a responsibility to provide support but increased caseloads mean services will be stretched even further. Existing Teachers of the Deaf will not have capacity to meet need.

It is strongly argued that new documentation should ensure reference to (not just recommend) the involvement of TODs who have the mandatory qualifications and that specialist support be provided as required by the MQTOD to CYP who have hearing difficulties. (The SEN Code of Practice in England contains specific reference to this).

WG cuts to TA funding grant over time has meant less specialist trained TA support. Specialism is being watered down with the ALNCO not always understanding the needs of HI CYP or prioritising support as appropriate to needs. Trained TA staff have specialist qualifications which include total communication skills enabling many CYP access to the curriculum through sign language and note takers or lip speakers.

0-3 IDP – TOD involvement is essential in the Early years, from diagnosis, to support the development of language and communication skills, and prevent or minimise difficulties in the later years in education. Early intervention work should be made compulsory for pupils

with hearing/sensory loss and MSI needs. The QS in Educational services for CYP with SI places considerable emphasis on early intervention.

There is currently no funding within education services to meet the needs of children from 0-2 and yet this is a critical time for the development of language and communication skills and in working with parents to empower them to support their children. The proposed legislation may not be sufficiently rigorous to ensure pre school children have appropriate access to specialist support. The Early Support Principles should underpin the approach to pre-school intervention.

There is a critical period in which the potentially limiting effects of hearing impairment on language development can be changed through parental support and use of efficient auditory input, visual communication strategies or a combination of approaches to facilitate age appropriate language at school age. Research suggests the first 6 months for congenitally deaf babies, but this can change for progressive or acquired losses.

Capacity-impact on HI teams is a concern. Often TODs are key workers or lead professionals and larger caseloads may mean less time for intervention. There needs to be clarity about who would become the key worker, manage and collate the IDP process within a multi-agency set-up. As the TOD is frequently the key professional where hearing loss is the main difficulty, this aspect is likely to fall to the TOD. Continued use of Early Support materials in the Early Years should be written into the new documentation to strengthen early years intervention.

Single point of access process is an excellent idea for CYP, where everyone works together to meet needs in a collaborative way. Multi-disciplinary meetings are most effective when all those involved are present – a representative from all support services needs to attend (another pressure on time).

The responsibility on LAs is a key issue and it would seem both unreasonable and unworkable to extend the LA's statutory responsibilities into areas for which they hold no overall responsibility for governance or funding.

There is concern about the divergence of systems and definitions between England & Wales which may result in complex cross border issues and potential incompatibility of systems when CYP transfer between countries.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Robust Legal Framework – Statutory will mean needs should be met with more consistency of approach for a wider range of pupils. Difficult to determine whether framework will actually be robust until implemented and tested.

There may be some unrealistic expectations from parents unless the documentation is written carefully, so wording within documentation must be clear and accessible to all parents.

The IDP wording must be explicit about the:-

- Needs - who will deliver these? Targets/Actions can be agreed but EY provisions, schools and colleges must deliver the recommendations and track progress.
- ALP – people/services involved must be clearly identified. It needs to be clearly stated within the Plan that schools and colleges have responsibility for delivering the identified educational provision
- Views wishes & feelings of CYP and parents. Will CYP feel able to voice their own concerns or wishes if they do not reflect those of their parents? How will this be managed within the process?

Comment – current wording not strong enough

- More strength needs to be given to prevention and early intervention – make clear the setting has responsibility for delivering recommendations by the TOD specialist.
Para 155 of code P37: "*The first response to inadequate progress should be high quality teaching targeted at their areas of weakness...This is a fundamental element of high quality – but routine – teaching*".
- Impact monitoring should be targeted in the IDP if no/unacceptable level of progress is being made. TODs use additional assessments specifically for HI CYP which enable them to model and suggest interventions to support the CYP
- More and more pressure from a limited service may encourage schools to move away from identifying CYP with possible hearing loss. This is worrying to HI services as they often pick up pupils with hearing loss following referrals from schools – the added paperwork may deter staff when considering referral for an assessment
- Training is likely to be an issue for School improvement teams/Challenge Advisers and Estyn, as part of the Quality Assurance process. Professionals who understand the specific needs of HI CYP should be included in these teams
- New in the documentation - parents can make referrals. Parents should be able to make a referral via Health (not education) as hearing loss is a medical need. Possibly a trained audiologist is needed to follow up on parental queries.
- 0 – 3 support/training within all pre-school playgroups needed. Capacity an issue, a trained specialist early years adviser in every LA needed to deal with this.
- 0 – 3. TOD heavily involved with Partnership working with Flying Start model has worked well for early identification. If this funding were lost it would have a significant impact on this work.
- In non-Flying Start areas – LA doesn't cover these pupils or provision currently. Practice which would be welcomed by the LA as pupils who may have hearing loss are currently missed unless they are picked up by health.

Para 128 of code P33 notes "*Welsh Government is developing an Early Years Development and Assessment Framework (EYDAF). This is intended for the use of all early years practitioners...It is intended that the Code will set out in detail how the EYDAF can be applied to assist the identification of children with ALN*"

WG developing assessment framework can't comment as not available.

- Whilst this process enables LA to challenge schools over levels of ALP in the Early Years for deaf learners, this will make additional demands on current LA staffing.

IDPs

All reports sent to CYP should be accessible to the CYP as an easy read version. PCP one page profile is child friendly, enables the CYP to identify the things that are important to and for them and can be personalised as wished.

Specialist ToDs need to get to know the CYP prior to the IDP process. Current timescales suggested within consultation document may not be able to be met in newly identified cases.

The emphasis on increased participation by CYP is welcomed and is a positive principle to be operated throughout the implementation of new procedures.

In principle there is agreement that the proposal to introduce a unified planning process is a good one, but there is some concern that the Draft Bill, as constituted, would not create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs).

The graduated response sets out a conception of a school-led and initiated assessment process that starts with the expertise of staff dealing directly with the pupil but gradually proceeds to engage with more specialist staff, initially within the school but ultimately from external support services. All staff involved thus contribute to developing a clear understanding of a child's additional learning needs. There is concern however that specialist opinions may not always be sought leading to the needs of CYP not being fully or appropriately identified and planned for.

The current proposals should set out in far greater detail and structure how assessment processes at all levels should underpin and contribute to the development of IDPs.

Within the preparation of IDPs, the duty to favour mainstream schools may not be in the best interests of the deaf CYP. A special school should be viewed as a possible/ positive option for some pupils.

The suggestion that IDPs should be issued without core pieces of advice undermines the principle of working in the child or young person's best interest. If ALN are not properly understood they will not be properly provided for.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be (1) protected and (2) promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Agree – but TOD may spend more time supporting the IDP process and paperwork rather than direct involvement with the CYP within the monitoring and intervention process.

Action – LAs will need to ensure 0-25 staff are able to facilitate PC reviews – training

implications

Wording within the documentation needs to state services MUST work together to support CYP to ensure ALP. There is frequent use of the word 'should' which allows leeway.

PCP tools also promote and ensure strengths, resources and networks are explored to meet need. **Unified Paperwork** needs to be set by WG so that if CYP with HI needs move between authorities, paperwork is easily transferable. Plans in England have lacked uniformity and proved extremely challenging to manage and implement

PCP paperwork has

- Capacity implications for TODs and LA staff – letters to range of people/differentiation to meet CYP needs

It is positive to note that in future the ALNCO will be required to obtain a specific qualification. It is hoped that within the training, all areas of ALN will be studied, including Sensory/hearing. This training will require funding and will also have time implications. Many SENCos are already overstretched.

Section 29, Duty to favour education for children at mainstream maintained schools: unless this is incompatible with the wishes of the child's parents or the provision of efficient education for other children'.

This statement suggests that the best interests of the individual CYP are not paramount.

Professional opinion may conflict with parental wishes, but have the breadth of experience on which to base realistic predictions of outcome. The negative impact on the needs of other children may lead to the stigmatising of children with additional needs and the reduction of current inclusive practice.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Agree in principle, it provides a basis. It should be a more unified approach for all CYP across Wales. Easier for services to work together from a single plan but question whether Health will show the same commitment as other agencies.

Reports/advice for CYP with ALN should read '**must provide**' and not 'should provide'.

- Designated Medical or Clinical Officer in health is positive link. TODs recognise the importance of good, strong links with health. Audiology links at present are good in many areas, more cutbacks in health mean there is less representation from health care professionals in meetings/annual reviews.
- Significant concern that the Bill states that LAs will have the prime and/or ultimate responsibility for ALP eg if Health indicate that an intervention is necessary for a HI CYP and Education disagree, (or vice versa), due to a difference in opinion or understanding of the implications of hearing loss, this may result in conflict/Tribunal. The ultimate

- responsibility lies with the LA which is of major concern. The LA or school governing body must comply, cannot challenge a health decision – no recourse for LA.
- Highlights the need for an Educational Audiologist as very often health do not always understand the educational/functional implications on a child. This is a recommendation from WG QS for CYP with HI however there are few Ed Auds and no funding within most LAs to train one.

There is a major inequality over duties and responsibilities between agencies especially Health & LA. There is a lack of accountability for Health and concerns regarding the commitment of Health to the bill.

There are concerns with regard to the basis for future collaboration with Health in relation to the delivery of speech and language. The Draft Bill and accompanying documents place no discernible obligation on Health to either carry out assessments provide information in a timely manner or to provide services other than those which they have already promised to deliver.

A particular case in point is when a case is subject to decision by the Tribunal. In these cases there remains no obligation on Health or other agencies to provide in line with decision and the full burden therefore falls upon Education.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Draft ALN Bill Section 37 – Disagreements and Appeals

- SNAP- independent advice and advocacy organisations - agreed by TODs
- Disagreement resolution – purchased from SNAP currently but costly.
- PCP approaches should improve communication, should be early intervention and avoid recourse so hopefully less disagreements.

Plan as described should result in less disagreements and appeals

- Advocacy has funding implications – schools/LA/FEIs
- Also signed support communication for deaf parents/adults is costly – who will have responsibility for funding this?
- Case friends. It is of concern that the case friend may have no understanding of the CYP hearing difficulty but can speak on their behalf. There needs to be some training in place to ensure case friends have a full understanding of the needs of the CYP.
- Will WG identify suitable advocates, if so, who will they be, and will they be trained in HI and the implications of hearing loss?

Draft ALN Bill Section 40 - Appeals

Consideration needs to be given to the impact of the appeals process, subsequent outcomes and compliance.

Timetable for addressing requests by LA could/will result in conflict due and capacity issues.
0-3 years – 7 weeks to prepare an IDP

Timescale

IDP

7 weeks (School/FEI)

1 week to acknowledge request, then 10 weeks to develop IDP

Timescales are unrealistic when multi-agency professionals and parents etc have commitments. Diaries are often booked up well in advance and convening meetings to suit the majority is currently a significant challenge.

It is worth noting that the timescale contained within the English Code of Practice for the production of an EHC Plan is 20 weeks, recognising the requirement for multi-disciplinary assessment and the bringing together of a variety of professional assessments to reach a holistic understanding of a child or young persons' additional learning needs.

Response note:

Positive that the LA can challenge schools but the time frames are too tight to build a proper picture, gather info and prepare an IDP – incomplete picture will not be a holistic plan. Progression can't be demonstrated within a short timescale and proven to parents.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

If The Draft ALN Bill and Draft Code of Practice are not significantly developed there is a real danger that the good practice represented in the current Code of Practice may be lost to the detriment of CYP with ALN

There is concern that the explanatory memorandum significantly underestimates the impact for LAs and therefore its specialist teachers who have to procure equipment and support.

The Draft Bill provides for the ALN Code setting out 'guidance' – will there be a legal framework and can this 'guidance' be ignored?

Whilst there is information regarding the additional training of the general teaching workforce and specific additional training for ALNCos, there is not a clear specification for the mandatory qualification for teachers of low incidence sensory impairments, ie. TOD, QTVI, QTMSI. The routes to gaining these additional qualifications are not noted. The assumption of the retention of the mandatory qualifications is made through fleeting reference such as section 332 on page 69 of the draft code.

The code also refers to places where the school specialises in low incidence provision, such as visual or hearing impairment' but does not recognise or advocate the retention or development of specialist resourced provision in the drive for universal mainstream education.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

2005 Welsh Government Quality Standards in Ed Services for CYP with Sensory Impairment has been an excellent document to inform service provision – it would be highly beneficial if this could be updated and reproduced to support the new documentation.

Many TODs and Managers use this document extensively to shape service provision but there is significant feeling that the wording needs to be stronger with ‘must’ used instead of ‘should’ throughout. We all aspire to deliver a quality service but in times of financial restraint, it is often the bare minimum which is delivered. If all children are to have equal entitlement to a quality service then we need a document which ensures this will be delivered.

Continued need for the specialist mandatory qualification to ensure a skilled workforce is available to support the needs of pupils 0 – 25 with Sensory Impairment. The current shortage in the workforce and ageing population of ToDs will have significant impact on the ability of LAs to provide quality services particularly given the extended age range.

Specialist equipment – greater clarity on responsibility for funding specialist equipment would be desirable. Currently Health can advise that a piece of equipment would be useful but this is often based on parental feedback only and LAs then have responsibility to fund this without a full assessment of need having taken place. If they choose to challenge the need for such equipment, conflict often arises. If the need for specialist equipment was explored and identified within the IDP process with all agencies present, this would help to avoid these instances.

There needs to be a clear specification of the required advice providers who would contribute to the multi-disciplinary assessment to inform an understanding of a CYP’s ALN. The current Code of Practice makes this absolutely clear.

The Draft Bill refers to a duty to favour education at mainstream maintained schools unless there is incompatibility with Section 29 (1). It is suggested that this point needs the further addition of **(c) the child's needs**

5 (d) will the list of independent special post-16 institutions include those located in England also?

The draft bill does not specify that the ALNCo must be a teacher, although this is clarified in the code. This contrasts with the specifications for the Designated Medical/Clinical Officer.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Sallie Durbridge

Organisation (if applicable): Sensory Impairment Service, Carmarthenshire County Council

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input checked="" type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
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ALP – definition is clear with positive focus on learning.
There will be a substantial increase in training needs required by staff in schools and colleges with regard to the proposed changes; this will impact on the capacity of Teachers of the Deaf (ToD), Qualified Teachers of the Visually Impaired (QTVI) & Qualified Teachers of those with multi-sensory impairment (QTMSI) to plan and deliver services in order to support this change.

0-25yrs The continuity of an IDP across the age range 0-25 will give consistency particularly during transition from one stage/establishment to the next. This is a positive move towards planning and meeting the needs of CYP with ALN.

*Post 16 – The requirement for specialist teachers (ToD, QTVI, QTMSI) to work with increased age range will impact on resources, staffing, budget. There is no designated funding within LAs to meet the needs of the 16-25 age range and very few FE colleges have access or choose to have access to specialist teachers. Service provision will be required to extend across the age range and take account of an increase in numbers of CYP requiring a service. Most sensory services are already stretched to capacity. The LA has a responsibility to provide support but increased caseloads mean services will be stretched even further. Existing specialist teachers will not have capacity to meet need.

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Wording within documentation must be clear and accessible to all including CYP and parents.

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- More strength needs to be given to prevention and early intervention – make clear the setting has responsibility for delivering the recommendations of the specialist teacher.
- Impact monitoring should be targeted in the IDP if no/unacceptable level of progress is being made. ToDs/QTVIs/QTMSI use additional assessments specifically for CYP with sensory impairment which enable them to model and suggest interventions to support the CYP
- There is concern that the additional pressures/impact of change on schools may deter them from identifying or referring CYP with possible sensory loss.
- 0 – 3 support/training within all pre-school playgroups needed. Capacity to deliver this is an issue.

IDPs

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Supporting comments

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Supporting comments

Agree in principle, it provides a basis. It should support a more unified approach for all CYP across Wales. Easier for services to work together from a single plan but question whether the LHB/NHS will be fully committed.

The service would like to see that reports/advice for CYP with ALN have the wording '**must provide**' rather than 'should provide'.

- Designated Medical or Clinical Officer in health is positive link. Specialist teachers recognise the importance of good, strong links with health. Audiology/Ophthalmology links at present are good in many areas, more cutbacks in health mean there is less representation from health care professionals in meetings/annual reviews.
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Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Draft ALN Bill and Draft Code of Practice would benefit from significant further development following the consultation process to ensure that the good practice represented in the current Code of Practice is not lost to the detriment of CYP with ALN.

The Draft Bill provides for the ALN Code setting out 'guidance' – will there be a legal framework and can this 'guidance' be ignored?

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

2005 Welsh Government Quality Standards in Ed Services for CYP with Sensory Impairment has been an excellent document to inform service provision – it would be highly beneficial if this could be updated and reproduced to support the new documentation. In addition, reference to the Mobility Officer is outdated and should refer to the Habilitation Specialist.

Many specialist teachers and Managers use this document extensively to shape service provision but there is significant feeling that the wording needs to be stronger with 'must' used instead of 'should' throughout. The Service aspires to deliver a quality service but in times of financial restraint, it is often the bare minimum which is delivered. If all children are to have equal entitlement to a quality service then we need a document which supports the delivery of this.

Continued need for the specialist mandatory qualifications to ensure a skilled workforce is available to support the needs of pupils 0 – 25 with Sensory Impairment. The current shortage in the workforce and ageing population of ToDs, QTVIs & QYMSIs will have significant impact on the ability of LAs to provide quality services particularly given the extended age range.

Specialist equipment – greater clarity on responsibility for funding specialist equipment would be desirable. Currently Health can advise that a piece of equipment would be useful but this is often based on parental consultation only and LAs then have responsibility to fund this without a full assessment of need having taken place. If the need for specialist equipment was explored and identified within the IDP process with all agencies present, this would help to avoid instances of disagreement.

There needs to be a clear specification of the required advice providers who would contribute to the multi-disciplinary assessment to inform an understanding of a CYP's ALN. The current Code of Practice makes this absolutely clear.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Zoe Richards

Organisation (if applicable): Learning Disability Wales

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	X <input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Definition

Learning Disability Wales (LDW) believe that the definition used is medically focused and refers only to education in its formal sense. In order that young people achieve their potential and have aspiration it is important the bill takes into account learning in its wider sense. In Wales we currently have strong emphasis on achieving grade A-C in G.C.S.E's and often measure schools performance in these terms. We must ensure that the bill actively promotes wider learning and drive for independent living to equip young people with the tools as they become adults and contributing citizens in Wales.

Age range 0–25

LDW welcome the change in age range and believe with better early identification and support children benefit greatly. In terms of the upper scale the extension of age range to 25 should support young people through education and smooth the transition into them becoming young adults who are economically contributing to Wales.

Although we support the extension we do not believe that there is any duty on health to support the young person's journey and believe there is little in the bill to identify who will take a lead in provision for those under the school age.

In terms of further education there will need to be substantial resource input to be able to manage the writing/coordination of IDP's when in large settings. The role of the ALNCO being of senior management level and having caseloads of in some cases hundreds within the further education setting will be unmanageable from the start. To adopt the whole setting approach to the learner which the spirit of the bill is about there will need to be wide scale training for teaching and non-teaching staff.

LDW would also welcome young people being able to use an IDP through to apprenticeships and government work programmes in order that they do not discontinue and leave a person without further progression routes when leaving formal settings.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

LDW feel that it is important that WG provide a template for IDP's in order that they are robust enough to withstand legal challenge, are portable across all Local Authorities and that they have a person centred basis.

In order to ensure that there is a person centred approach to drawing up the plan there must be resource for staff training, accessible communication Welsh and English language provision and assessment.

Although the bill sets out a robust system for maintenance and review it does not set out a template or instruction for the IDP to be considered a legal document.

LDW would also welcome a robust inspection framework to ensure that preparation, maintenance and review are consistent across Wales.

Again we would stress that significant resource would need to be placed alongside the implementation to ensure that all staff involved receive substantial Person Centred Planning training.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

One of the key elements to our support for the reform is to ensure that young people with an additional learning need have greater aspirations. To be considered as equal to their non-disabled peers and to utilise their right to education as a means of securing good prospects rather than education acting as a process through to an unfulfilled adult life.

We do not currently believe that the bill is underpinned by a person centred approach. After many years of championing this methodology in all streams of our work through health, education and social care provision we know that key to reaching aspirations is the person centred approach.

There is little in the bill to suggest there is a pathway at the latter stages of the age range to transition in adulthood smoothly.

As a nation we regard independence as a measure of success and part of independence is contributing and benefiting as a citizen of Wales. In order to achieve this for young people with Additional learning needs we need to ensure the support they receive when leaving education ensures opportunities for REAL employment.

There is little in the bill to promote this linkage to independent life.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

From our knowledge and evidence bank we know that if the bill is based a person centred approach then this increases levels of agencies working together. However, the bill must contain legal obligation to work in a person centred way.

The bill as it stands does not put any duty on any agency other than education to provide. There must be clearer lines of responsibility in order to ensure that all agencies are working in a person centred way to meet the identified needs of the child in an unbiased way. In times of substantial cut backs to services we must be sure that decisions made are in the best interest of the child with regard to resource and without a duty to provide in such difficult financial times we know that this is unlikely to happen.

The role of those supporting the creation of the IDP's alongside a child/young person and their family's needs to be clearer. We see from the bill and code that there is a clear description which seems to be very school based and doesn't acknowledge the different structure within the early years and further education settings.

The ALNCO in a college would need to be senior management with a caseload of possibly 4500 young people if the structure currently proposed is adhered to.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/> x
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Supporting comments

LDW support the ethos of avoiding disagreements and having a clearer and consistent right of appeal. We do not have the legal expertise or understanding of the system to comment if the bill provides this.

We do acknowledge however, that there needs to be a support system with independent advice providing to all families and young people in the disagreement process.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

As members of the Third Sector Additional Needs Alliance we have included our key concerns below.

Recommendations for the Additional Learning Needs Bill and Code of Practice

- 1. A wide ranging definition of learning that spans the 0-25 age range** should be adopted that recognises a child or young person's social and emotional development, the role of play in learning and the importance of learning skills for life, in addition to more formal curriculum-based learning.
- 2. A Human Rights based approach should be evident in ALN provisions and processes.** In order for the promotion of an individual's potential, hopes and aspirations the child or young person must be the clear and unequivocal focus of ALN development and delivery.
- 3. There should be a presumption of support need in order to promote a Human Rights based approach** to ensure children and young people do not have to be seen to be failing before accessing an IDP. Children and young people with certain specific disabilities should always be entitled to an IDP.
- 4. Additional Learning Provision should encompass the multi-agency support children and young people may require to access learning,** including supporting their communication, physical, sensory and environmental needs.
- 5. The full ALN framework must be Person Centred and involve children, young people and families** in all decisions that affect them, including the use of Person Centred Planning in the co-production of the IDP.

- 6. The ALN framework should ensure consistent access to Welsh language specialist assessments and services through encouraging regional commissioning and provision.**
- 7. The IDP should be a uniform statutory template that clearly details agreed ALP to aid consistent presentation of information, improve clarity of entitlement for children, young people and their families, portability and the dispute and appeals process. Recommendations about format can be found in Appendix 2.**
- 8. Training on PCP and specific disabilities** should be delivered to all staff involved in the IDP.
- 9. There must be clarity with regards to the local authority's duties to meet the ALN of children in the early years**, specifically in relation to delegated functions to other agencies, including health, in the 0-2 age range and in non-maintained settings.
- 10. There must be clarity for local authorities and Further Education Institutions with regards the duties to develop IDPs and meet the needs of all learners 16-25, including extending entitlement to IDPs for those who pursue learning through apprenticeships.**
- 11. There must be clarity for all agencies about the support needed at key transition points** by children and young people.
- 12. ALNCOs and their equivalents in all settings should be adequately resourced, have appropriate qualifications, training and expertise and should be allocated specific time to fulfil their ALN duties.**
- 13. Disability-specific provision pathways should be developed** that support professionals to ensure the involvement of the right agencies at the right time.
- 14. Guidance should be provided to local authorities on maintaining central provision of support for low-incidence conditions**, such as sensory loss. This should include guidance on delegation of budgets to schools and the promotion of greater regional working for very low incidence conditions.
- 15. The assigning of a support co-ordinator** should be a standard offer from local authorities to all children, young people and families to act as a single point of contact in developing, co-ordinating and driving forward the IDP.
- 16. Specialist independent advice and support should be available to both young people and families as an integral aspect of local authority Dispute Resolution Services.**
- 17. The Dispute Resolution Service should be accessible concurrently with appeals to Tribunal and streamlined with Putting Things Right.**

18. **The remit of Education Tribunal Wales should be extended, including having powers to sanction, and should be renamed** to better reflect this remit and the age range of those who will receive an IDP.
19. **Estyn should have a role in monitoring** ALN provision, assessment, support systems, complaints and disputes, including within their inspection framework of pupil well-being.
20. **TSANA should act as an advisory group to the Children, Young People and Education Committee** in order to provide support and advice as the Bill progresses through the Committee stage.

Key areas of discussion and concern

1. Early years

The new ALN framework must recognise that learning begins from birth and that ALN reform should consider the implications for children from 0-2 in particular, who are likely to be supported primarily by colleagues in health rather than the local authority.

The early years are crucial in a child's development and it is imperative that children with additional learning needs have access to an IDP. TSANA therefore recommends that an IDP referral is made following identification of ALN to ensure appropriate support is in place at the earliest opportunity; waiting for an assessment should not be a barrier to a setting providing suitable provision.

Families must have clarity regarding the agencies responsible and involved in ensuring that young children with additional needs receive support in pre-school settings; families need to know who is responsible for the funding if required; and who is responsible for initiating an IDP, for example, a Health Visitor.

The Bill must clarify the IDP process in the early years (outside the school setting), including proposals for cooperation between agencies in identifying ALN and delivering ALP, the ultimate responsibility of the local authority to meet the needs of all children with ALN and the role of maintained and non-maintained nurseries.

2. Post-compulsory education

As the SEN/ALN framework is extended to the 16-25 age group, there are wide-ranging implications for the delivery of support to young people with ALN in FEIs and specialist placements. The new arrangements must be clear about funding devolved to local authorities for specialist placements and funding for delivering the framework in FEIs.

Clarity is needed with regards identifying who is responsible for IDPs in FEIs. Further information is needed regarding expectations on FEIs for planning the young person's transition following their time at the FEI.

TSANA is disappointed that the IDP will be limited to further education settings. We are concerned that young people with ALN wishing to pursue alternative learning paths, such as those undertaking apprenticeships, will not be afforded the same support as their peers in further education.

3. The IDP

The Bill must clarify entitlement to the IDP to ensure that: learners should not have to “fail” before accessing an IDP; some children and young people with specific disabilities (e.g. sensory loss) will always need an IDP; families or the professionals working with children and young people must be able to request an assessment for an IDP; those with a temporary disability likely to impact on their learning experience over a sustained period should be entitled to an IDP.

TSANA feels strongly that the IDP must not represent a step backwards in entitlements and clarity in comparison with the current SEN framework, especially for those children and young people who currently have Statements of SEN. We therefore welcome that the IDP will be a statutory document.

There must be a uniform statutory template to aid consistent presentation of information, portability and the dispute and appeals process.

We strongly recommend further amendments to the current draft layout of an IDP, in line with recommendations made in Task and Finish Group paper 4 (please see Appendix 2). The IDP must record the agreed ALP a child or young person is entitled to. Whilst there is merit in recording the agreed actions each professional will take, as proposed in the draft IDP, this does not guarantee access to services or ALP in the same way as does the current Statement document.

4. Coordination and planning

Disability-specific provision pathways would support colleagues to ensure that the appropriate professionals are consulted in the assessment process. They would also help determine when IDP development should be delegated to a school or college and would support education institutions in identifying the relevant agencies that should be involved in developing the IDP and delivering its content. TSANA has specific concerns around low incidence needs, such as Multi-Sensory Impairment, Visual impairment, Hearing impairment, Specific Language impairment, and believes there is a strong case for disability specific provision pathways in these cases.

A support co-ordinator should be assigned to children, young people and families to act as a single point of contact in developing and co-ordinating the IDP. This will ensure that children, young people and families have access to information and are appropriately involved in the process. The impact of this support has been demonstrated in the Welsh Government funded pilot projects on transitions for young people 14-25⁷ and the Welsh Government funded Early Support programme.⁸

⁷ Holtom, Duncan and Sarah Lloyd-Jones, ‘The costs and benefits of transition key working: an analysis of five pilot projects’, Welsh Government Social Research, 2012.

⁸ <http://www.earlysupportwales.org.uk/> accessed 16.06.15

Key staff involved in the IDP process and supporting systems should have training in PCP and how it relates to the IDP process, as well as training and awareness of specific disabilities.

ALNCOs should have appropriate qualifications, training and expertise. ALNCOs must also be allocated specific non-contact time to fulfil their ALN duties. The ALNCO role will likewise need to be funded appropriately. There is need for specific funding to be allocated for the provision of ALNCO, and greater clarity about the hosting agency for ALNCOs, in the early years. Likewise clarity is needed for the development of the ALNCO in further education settings.

5. Specialist placements

Children and young people with additional learning needs must be supported to access and participate in the educational provision that best meets their needs, whether this is in mainstream or special education provision.

A learner's needs must be established following an assessment by a suitably qualified person. This assessment will determine whether the learner's needs can be appropriately met by participating in mainstream education and through accessing the national curriculum. Consideration should be given to the learner's wider development, including access to appropriate peer groups and specialist curriculums. For those learners for whom assessment has deemed mainstream education and participating in the national curriculum as appropriate, the feasibility of their full participation will be dependent on: having trained staff, including mainstream teachers, specialist advisory teachers holding the mandatory qualification for sensory impairment, and learning support staff; as well as the provision of communication aids and accessible educational materials.

Children and young people whose needs can best be met in a special school or an Independent Specialist Colleges should be supported to access out of county and/or cross border placements. Local authorities must arrange the timely funding of placements to enable children, young people and their families to positively manage transition.

6. Low-incidence conditions

Support for low-incidence conditions, such as sensory impairments, should be maintained centrally by local authorities. More information and clearer guidelines are needed on the delegation of budgets by local authorities to nurseries and schools to ensure provision for low-incidence needs is protected. For very low incidence needs greater emphasis should be placed on regional working to make best use of expertise and to promote consistent access to specialist assessments and services across Wales.

7. Information, advice, assistance and dispute resolution

The availability of reliable and specialist information, advice and independent advocacy should be a feature of the whole ALN system, not only in relation to dispute resolution. Specialist advice must be independently provided by a body that is able to act entirely in the client's interests and is independently audited.⁹ Independent Family Supporters should be available to accompany the young person and/or the family on the whole of their journey and be seen by the family to be independent of any interested party.

We recommend that national guidelines are developed to ensure that Independent Advocacy Services, Family Partnership Services and Dispute Resolution Services are appropriately distinct, independent and of a consistent minimum standard and that there are guidelines for consistency in complaints mechanisms. As many children and young people will require input from health as part of their journey through the ALN system, clarity is needed with regards streamlining DRS with Putting Things Right.

To prevent mandatory dispute resolution being used as a delaying tactic, we recommend that the tribunal appeal process can be concurrent.

8. Tribunal

The tribunal must have power to affect change and TSANA recommends that it is given powers of sanction. These could be similar to those of the Welsh Language Commissioner.

The current proposed name, Education Tribunal Wales, does not feel appropriate in the 0-25 context, especially given the adoption of 'learning' elsewhere in this framework for this very reason. We therefore recommend that the tribunal be renamed to reflect the remit and the age range of those who will receive an IDP.

In addition to the areas identified by the Welsh Government as being within the jurisdiction of the ETW (background paper 5), the following areas should also be considered for jurisdiction:

- a. transport/accommodation needs associated with a placement
- b. failure to provide what has been outlined in a plan
- c. IDP objectives/outcomes
- d. The way in which an IDP assessment was conducted.
- e. Disability Discrimination claims 0-25

9. Monitoring and accountability

Estyn should have a role in monitoring the ALN framework. This could be as part of their inspection framework of pupil wellbeing.

⁹ Recommendation accepted by the Welsh Government from 'Review of advice services in Wales', Independent Advice Providers Forum, 2013.

The substance and quantity of disputes/appeals should be monitored, identifying any recurring issues within an area. Support systems such as the FPS and the DRS should be subject to quality assurance.

Local authorities, regional consortia and Welsh Government should have duties in relation to collating data and quality assurance of the new system.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name: Helen Williams

Organisation (if applicable): St Cyres School

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	x
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	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

More consistent terminology is very useful and should eliminate negative connotations of SEN.

Identification of ALN: ‘has a significantly greater difficulty in learning than the majority of others of the same age’- too vague, what does greater difficulty mean?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The framework may be robust but the amount of time that will be needed to produce and maintain the number of IDPs that will result from the ALN bill is unsustainable. In a large comprehensive school in particular, the majority of an ALNCO’s time will be spent on the paper work associated with the IDPs. Therefore, it could be argued that less time will be centred around pupils and meeting their needs. ALNCO time will be stretched and this could result in less time centred on pupils and their provision.

IDPS content has been specified but will not be consistent. Will there be any quality control of IDPs? If so, whose responsibility?

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There is concern centred around who will provide some of the ALP for more complex cases. Will SEN panels still exist and make decisions about provision?

The interest of pupils are already considered with the current framework. The new ALN bill implies that currently the interests of children and young people are not promoted and this is simply not the case. Where good practise exists, children and young people and their interests are already central.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Again, the ALN bill implies that agencies do not work together. At present, different agencies that work with pupils are invited to reviews and their feedback is sought before meetings. In between, most ALNCO have contact with other outside agencies that may be involved. The difficulty of getting all parties around the table will still exist.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The bill seems to give a lot of power to parents. It seems that if parents are unhappy about recognition of ALN and ALP then they can appeal and that the school will have to negotiate with some input from local authority. It seems that if parents are prepared to resort to legal action, then school and LAs will want to avoid tribunal and financial implications and may be forced to the will

of parents to avoid this.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

In relation to LAC pupils, will PEPs be replaced with IDPs even if a LAC pupil does not an identifiable ALN>

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Kelly Robinson, BACD Administrator

Organisation (if applicable): British Academy of Childhood Disability (BACD)

e-mail/telephone number:

Your address:

The British Academy of Childhood Disability (BACD) membership is comprised of professionals working in the field of childhood disability and special educational needs, including paediatrics, child psychiatry, specialist nursing, speech and language therapy, physiotherapy, occupational therapy, psychology, education, the voluntary sector and parent representatives. See www.bacdis.org.uk

BACD also represents Neurodisability, which is a subspecialty of paediatrics, within the Royal College of Paediatrics and Child Health.

This response is by Welsh members of BACD.

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of	Schools	<input type="checkbox"/>
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respondent	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
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	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	X <input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It is positive to include young people up till the age of 25. This would help in transition process and also bring young people's additional needs in focus. This would certainly help in planning for appropriate provision whenever they move between schools and further education/ training institutions.

For children in early years (between 0-3 years) there is variability in service provision available locally. There will be capacity issue if services were to be streamlined and made universal/statutory.

There is also an issue post 16 as there are not comparable health services for young adults that are available to children. This issue is confirmed by the current challenges faced by English Health Services since the implementation of the Children and Families Act 2014.

The definition of ALN is very broad and does not differentiate between children and

young people whose needs are complex needing high degree of support/provision and those with severe, moderate or mild needs.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill does not give out the details on practicalities of preparing, maintaining and reviewing IDPs. There is concern around the huge administrative workload it is likely to create for schools and partner agencies.

There is no clarification in the Bill as to the potential involvement of health professionals in IDPs apart from providing information when requested and delivering provision that has been agreed in IDPs.

The vast majority of children with additional needs will be already known to child health department one way or another (e.g known to therapies). However, currently the child health department including various therapies are only involved in providing medical advice for statements of SEN which usually involves only children with very complex needs.

With the Bill proposals, health professionals could potentially be required to collaborate/ cooperate in preparing the IDPs for all children with additional needs irrespective of the level of complexity, and also up to the age of 25. This is beyond the current capacity and expertise of child health departments and it would mean an exponential increase in clinical and administrative workload. There are not enough health professionals employed not are paediatricians and allied child health professionals necessarily expert in young people's needs 16 – 25.

The role of health is fulfilled by GPs and general physicians they would need extensive training in learning difficulties and disabilities. The Welsh health workforce is not ready for such a role.

It is to be noted that the extension post 16 is causing challenges in England across all agencies. For example the Association of Educational Psychologists (AEP) has warned that increased workloads combined with a reduction in EP numbers due to financial constraints has hit support for children and young people with SEND and mental health difficulties. 85% of EPs reported "substantial" increases in workloads in the last six months with the extension of the age until which a young person can receive educational psychology support was increased from 18 to 25 through the Children and Families Act 2014.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill suggests that the IDPs should be outcome focussed and the outcome should be measureable and reviewed annually or sooner if necessary.

This may be good in the short term but an overview and a long term focus should also be part of IDP. This would help to map out the progress of each individual child over a number of years and also help professionals understand the changes in a child's profile and needs over time.

We hope that Wales does not make the same assumptions as England when planning and implementing a new statutory system.

The Department of Education reported on the evaluation of 31 Pathfinders trialling their new statutory system. The evaluation found that there was "no statistical evidence" that the changes had had an impact on the health and quality of life of young people. It also said there had been little change in terms of their confidence, independence or social contact, or the extent to which they enjoyed their education setting. Thus the new system appears, in delivery terms and outcomes, to be no better than the previous statutory framework.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill places an emphasis on the duty to collaborate and work together across agencies which in principle is excellent and the way forward. However what each agency might be able to deliver is another question. Every agency is constrained by their own resources especially in this time of national austerity and cuts in all budgets.

There will be issues around what parents/young people might want in their IDPs and ALPs and what it is possible for the agencies to deliver/provide.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill provides the appropriate framework however the SEN Tribunal for Wales would need to have Members from health and other agencies as well as the current roster of special education and disability specialists. Its remit and membership would have to be substantially altered.

Perhaps Wales should look to the pilots currently occurring in England to see if extending the remit of the Tribunal to the other statutory agencies is practicable. To date in England there has not been much take up of this extension to the Tribunal's remit. Perhaps parents and carers do not really wish for this?

Certainly, as well as being required to collaborate/ cooperate to provide for child's ALP there will be disagreements on what provision is requested and what is deliverable by other agencies apart from education - as occurs now.

But it may be that there are other avenues than an extended Tribunal which might be quicker and more effective in resolving such issues.

No agency should be expected or required to always satisfy parental expectations or indeed those of young people. It must always be the child or young person's need but qualified by 'reasonableness' in the face of the finite resources of all agencies.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

It is unfortunate that the draft ALN Code has not been published. It *might* have provided more detail on the actual implementation of a new statutory system which *might* have made this consultation more useful.

Indeed without the Code this consultation appears to be rather perfunctory – the Welsh Assembly appears to be just 'going through the motions' of a consultation.

There **must** be another, more detailed, consultation before the draft Bill is introduced in the Assembly once a draft Code has been published.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

1. There is lack of details around the IDPs. We hoped that this would be set out in the ALN Code or in draft Regulations – neither of which have been published – thus this consultation raises more questions than answers.
2. We have concerns regarding children with very severe and complex needs who were protected via statements and had accountability/responsibility resting with LEA but seems that in future now will all be under IDP umbrella and would have to rely very much on individual school systems to escalate their needs and provision. This may bring even greater variation across regions as to how these children are provided for. Postcode lottery already exists, it would be a great shame if the new system promulgated and expanded this.
3. There is no detail as to transition from the current statutory system for SEN to the new ALN system.

In England there was a lead in of 3 years with 31 local authorities and health trusts trialling various parts of the proposed system. This resulted in some changes prior to the Children and Families Act 2014 being enacted. It also affected the content of the final SEND Code of Practice: 0 – 25.

In England the implementation has been phased in over 4 years, with both the Education Act 1996, SEN Code of Practice 2001 and SEN Regulations running concurrently with the new requirements of the Children and Families Act 2014, SEND Code of Practice; 0 – 25 and the SEN and Disability Regulations 2014.

BUT there have still been difficulties and major challenges leading to DfE changing and extending the transition arrangements after only one year of the new system..

Wales MUST ensure that there is clear, transparent and robust system for moving from the current statutory requirements to the new which take sufficient account of the staff and funding resources required, training needs of professionals in all agencies and the constraints of budgets.

The Assembly MUST NOT raise parental expectations unless it knows it can deliver appropriately and on time.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation response form

Your name:

Lindsay Harvey (Chief Education Officer)

Organisation (if applicable):

City and County of Swansea Education Department

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of Respondent	Schools			
	Special Schools			
	Special Educational Needs Co-ordinators			
	Further Education Sector			
	Preschool Organisations			
	Education Professionals			
	Teaching Unions			
	Local Government			✓
	Work Based Learning organisations			
	Local Health Boards			
	Health Professionals			
	Other Public Sector Organisations			
	Third Sector Organisations			
	Individuals			
	Other			

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Supporting comments

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| 1.1 | We are pleased to see that the definition of ALN has been refined over time and now corresponds closely to the previous definition of SEN and is in line with England. This does beg the question of why an alternative term is needed when England has retained SEN. The previous definition was well established through legislation, guidance and case law and the new ALN definition will be subject to the same tests. This means that the definition requires absolute clarity. It will be used for establishing boundaries and will, inevitably, be argued over at all levels including through the courts. |
| 1.2 | At this point we would note that the proposed definition of ALN in itself, without any qualification, does not enable differentiation between varying levels of need. Different levels of need should imply access to different levels of rights, assessment, planning and provision. Children and young people with more severe and complex needs require more detailed and multi-disciplinary assessment and more detailed and comprehensive prescription of provision etc. |
| 1.3 | Any definitions used should allow for proper delineation of levels of need. The current proposed term spans the full range of need from those requiring a low level educational assessment and intervention to children and young people with the most severe and complex needs requiring comprehensive multi-disciplinary assessment and highly specialised special school placement. |
| 1.4 | We have particular concern in relation to how definitions or criteria will be used to demarcate the boundaries between the IDPs which schools or FE institutions should hold responsibility for and those for which the local authority will be responsible. This issue needs to be addressed. |
| 1.5 | In similar manner we are concerned that what constitutes ALP is not adequately defined in the Draft Bill and accompanying documentation. |
| 1.6 | We disagree with the suggestion that the Draft Bill would deal properly with the 0 – 25 age range. The widening of the age range to 25 has massive capacity and resource implications for local authorities in particular. Local authorities simply do not have either the resources or the capacity to manage the implied responsibilities for this greatly increased cohort of young people. |

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| 1.7 | In principle, introducing a common format to extend from school to post 16 makes sense. However, this does depend on how, crucially, responsibility and governance work. The local authority's responsibility is a key issue here and it is our strong view that it is both unreasonable and unworkable to extend the local authority's statutory responsibilities into areas for which they hold no |
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	overall responsibility for governance or funding.
1.8	A further issue to note is that divergence of systems and definitions between England and Wales will result in complex cross border issues and potential incompatibility of systems when children and young people transfer between the countries.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Supporting comments

2.1	We welcome the emphasis on increased participation by children and young people and see this as a positive principle to be operated throughout the implementation of new procedures.
2.2	In principle we agree with the proposal to introduce a unified planning process, but disagree profoundly that the Draft Bill, as constituted, would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs).
2.3	In particular, the Draft Bill, supported by the accompanying documents including the Draft Code of Practice, fails to set out any clear framework or specific processes to support the implementation of IDPs. This concern is a general one about the Bill and accompanying documents and is one that will be referenced further in responses to the other consultation questions.
2.4	In our view the framework and purpose should be based firmly around identification, assessment and provision for ALN and should incorporate a core emphasis on a graduated response to support, assessment and provision for ALN. One issue is that the Draft Bill and accompanying documents seem to lack a sufficient focus on education and educational needs and provision.
2.5	One possible reason for this is the central role given to person centred planning in the draft Bill.

2.6	In our view PCP has an important, but very much subordinate role to play. It is a useful approach to help understand a child or young person's perspective, any potential barriers to learning and to help set realistic and appropriate targets. The understanding gained can also help to select or adjust the approaches and provision utilised to address the identified needs and achieve the targets set. However, it is not in itself an adequate framework to manage
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	the assessment, planning and provision processes for children and young people with ALN.
2.7	In contrast to the lack of clear framework and processes in the Draft Bill, the current Education Act and accompanying Code of Practice provide huge specificity and clarity about the underpinning processes of assessment and provision at all levels from a school based IEP to a statement of SEN.
2.8	As noted above, the Draft Bill, and Draft Code of Practice, pay insufficient attention to the core conceptualisation of the process. The process, in summary is about identifying, assessing, planning and providing for additional learning needs and then reviewing and revising those plans as necessary.
2.9	The root process underpinning the current legislation and Code of Practice is assessment, supported by the concept of a graduated response with schools and, ultimately, local authorities, basing decisions about the next step in the process on the outcomes of the previous step.
2.10	The graduated response sets out a conception of a school-led and initiated assessment process that starts with the expertise of staff dealing directly with the pupil but gradually proceeds to engage with more specialist staff, initially within the school but ultimately from external support services. All staff involved thus contribute to developing a clear understanding of a child's additional learning needs. Decisions to engage more specialist assessments and interventions are based on either lack of positive response to the current plans and provision or in response to evidence about the severity and complexity of the additional learning needs.
2.11	Because the current legislation and Code are framed in this way they lead naturally to a delineation of responsibility between schools and educational settings on the one hand and the local authority on the other. The local authority becomes responsible for initiating a statutory assessment when presented with sufficient evidence of the severity and complexity of a child or young person's additional learning needs.
2.12	The concept of a statutory assessment, which is not properly replicated in the current proposals for a local authority taking on responsibility for an IDP, includes clear prescription of the core and additional assessments which should be undertaken to properly understand a child's severe and complex additional learning needs and which serves as a basis for decisions about provision and placement.
2.13	The current proposals should set out in far greater detail and structure how assessment processes at all levels should underpin and contribute to the development of IDPs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Supporting comments

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| 3.1 | We suggest that the framing of this question illustrates one of the central difficulties with the Draft Bill. Of course children and young people's best interests should be protected and promoted, but the central focus of the question should be on whether the Draft Bill enables children and young people's educational ALN to be properly identified, assessed and met. |
| 3.2 | As stated above, we disagree that the interests of children and young people with additional learning needs would be protected and promoted by the Draft Bill. Please see our comments under Questions 1 and 2 above. Without a clear framework, structure, processes and accountability, including clear descriptions of how and which assessments should be made and carried out there can be no confidence that children and young people's additional learning needs can be properly understood. And if these needs are not properly understood, there can be no confidence that they can be provided for or met properly. |
| 3.3 | We would note that the current legislation and procedures, if properly carried out, do protect and promote the interests of children and young people with additional learning needs, principally because they are highly structured and specified and focussed on identifying, assessing and meeting children and young people's ALN. |
| 3.4 | Children with severe and complex additional learning needs will continue to require a full multi-disciplinary assessment and planning process. However, children and young people with mild to moderate additional learning needs, who do not require a full multi-disciplinary assessment and planning process, will still require proper identification, assessment and planning processes matched to their level of need. Many of these young people may benefit from more specific or tailored educational plans rather than full IDP formats, rather in the way that the current IEP allows for the construction of targeted, specific educational interventions. |

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input type="checkbox"/>
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Supporting comments

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| 4.1 | While we note and support the drive to collaboration contained within the Draft Bill and accompanying documents, we are concerned that collaboration must be underpinned by great clarity about responsibilities and supported within a clear legislative framework. |
| 4.2 | The current framing of the Bill allows for much potential disagreement between children and young people, parents, schools or other educational |

	<p>institutions, and local authorities about who should have responsibility for drawing up and maintaining an IDP and on what basis this should occur, on what it should be based and what it should contain.</p>
4.3	<p>In particular we wish to reiterate previous concerns expressed in relation to the basis for future collaboration with Health in relation to the delivery of speech and language and other paramedical therapies in general. The Draft Bill and accompanying documents place no discernible obligation on Health to either to carry out assessments and provide information in a timely manner or to provide services other than those which they have already promised to deliver.</p>
4.4	<p>A particular case in point is when a case is subject to decision by the Tribunal. In these cases there remains no obligation on Health or other agencies to provide in line with the decision and the full burden therefore falls upon Education.</p>

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	<input type="checkbox"/>
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Supporting comments

5.1	<p>In taking the view that the Draft Bill does not support any reduction in potential disagreements or promoting earlier disagreement resolution we are referencing the points made in response to all previous questions.</p>
5.2	<p>It is our view that the greater the clarity about structure and process, the less likely is the prospect of disagreement and dissatisfaction. Because the Draft Bill is vague and imprecise in so many areas it is likely to make conflict and dissatisfaction more likely.</p>
5.3	<p>We support the aspiration of avoiding disagreement and resolving disagreements as early as possible in the process but would maintain that the conception of a mandatory disagreement resolution step prior to Tribunal is desirable. We would also note that, as a local authority, we would always wish for parents or young people to approach us directly in the first instance before seeking either disagreement resolution or appeal to Tribunal.</p>
5.4	<p>However, we are very concerned that widening the formal right of appeal to Tribunal, as set out in the proposal, would imply a massive increase in the number of cases that could potentially go to Tribunal. This issue will of course be exacerbated by the relative lack of clarity around responsibilities in the boundary areas between, for example, school and local authority. Increased referrals to Tribunal will, of course, place an increased burden on the limited,</p>

	and reducing, resources, of the local authority.
5.5	We agree in principle with the aim of children and young people being fully supported in having their views heard and their best interests met through the use of case friends and, as necessary, independent advocacy. However, we are concerned that the current lack of clarity and specificity might lead to greater reliance on advocacy services, because of the greater potential for disagreement.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Supporting Comments

6.1	At this point we wish to reiterate some of our core concerns. These extend to the content of the supporting documents including the Explanatory Memorandum and the Draft ALN Code of Practice.
6.2	As noted previously, we do not consider that the current Draft Bill and Draft Code of Practice properly incorporates the conception of a graduated response and highly specified approaches to identification and assessment.
6.3	We note that full multi-disciplinary assessment will continue to be required for children and young people with severe and complex needs to ensure that these are properly understood and met. At the levels that currently constitute School Action and School Action Plus, the processes may be expected to be led by schools but may, at School Action Plus, incorporate the contribution of external agencies. This element is not properly described within the current documentation. To deliver this stage of the graduated response implies that schools must continue to be able to access specialist support services, many of which are at risk of reduction or cessation in current financial climate.

6.4	The strength of the current system lies in the clear specification of the graduated response with clearly defined attendant responsibilities and absolute clarity about the process of statutory assessment.
6.5	If The Draft ALN Bill and Draft Code of Practice are not significantly developed there is a real danger that the good practice represented in the current Code of Practice may be lost to the detriment of children and young people with additional learning needs.
6.6	We take the view that the explanatory memorandum significantly underestimates the impact for local authorities both in terms of workload and finance.

- 6.7 As noted in previous consultation responses, we remain concerned that local authorities are being tasked with accountability for significant areas of responsibility over which they have little or no control, given that school funding is largely delegated and the governance of the further education sector lies outside Local authority remit.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Supporting comments

- 7.1 It is our view that the Draft ALN Bill and Draft ALN Code of Practice need a fundamental review and rewrite to focus far more specifically on identification, assessment and provision for additional learning needs as we have noted above.
- 7.2 We would wish to make a strong point that the proposed timescales for the production of IDPs, while probably reasonable for schools meeting lower level additional learning needs, such as those encompassed by the current IEPs, are impossible for either schools dealing with more severe and complex additional learning needs or for local authorities in all cases.
- 7.3 At higher levels of severity and complexity schools will need to seek external assessment and intervention to inform their understanding of a child or young person's additional learning needs and this will take time. A local authority will inevitably be fully dependent on the provision of assessment reports and advice from external specialists and these pieces of work take time to commission, carry out, record and return.
- 7.4 The suggestion that IDPs should be issued without core pieces of advice undermines the principle of working in the child or young person's best interest. If ALN are not properly understood they will not be properly provided for.

- 7.5 It is worth noting that the timescale contained within the English Code of Practice for the production of an EHC Plan is 20 weeks, recognising the requirement for multi-disciplinary assessment and the bringing together of a variety of professional assessments to reach a holistic understanding of a child or young persons' additional learning needs.
- 7.6 We also wish to express a strong view that, at least at the level of the Local authority IDP, there should be absolutely clear specification of the required advice providers who would contribute to the multi-disciplinary assessment to inform an understanding of a child or young person's additional learning needs. We would note that the current Code of Practice makes this absolutely clear, as does the new English Code of Practice.
- 7.7 It is our view that core advice providers should include the parents and child, the educational perspective from school or specialist, an educational

- psychology perspective, a health perspective, including additional specialist contributions such as speech and language or occupational therapy etc and a view from social services as necessary.
- 7.8 We welcome the increased emphasis over recent time on the contribution not just of parents but to ensure that the voice and views of the child or young person are central to both the assessment process and decisions regarding provision and placement. Notwithstanding this, we would argue strongly that without the core advice providers set out above, it would be impossible to reach a reliable understanding of a child's severe and complex additional learning needs since each contribution is distinct and complimentary to the others.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Definition of ALN

- More clarity is needed around the definition of ‘disability’ – does this link to the definition of disability in the Equalities Act?. If Governors / Head teachers are responsible in the first instance for deciding whether a pupil has ALN, the definition is not helpful as it is open to interpretation.
- There is a lack of any definitions / thresholds in relation to a graduated response
- Health and Social Care have different understanding / definition of ‘disability’ – there needs to be a common understanding across agencies.
- The definition needs to incorporate the broad range of reasons why children might have difficulties in relation to learning. This should include emotional readiness for learning and their social and emotional wellbeing.
- Will PLASC information still be collected & will there still be a register of pupils with ALN?
- There needs to be more detail relating to the 0-3 and 16-25 year age groups – for example who is responsible in pre-school settings?
- With such a broad definition and with no ‘graduated response’ or thresholds children disadvantaged by deprivation could be further disadvantaged by having to be labelled ALN.

Definition of ALP

- Definition refers to mainstream maintained schools –special schools don’t seem to be included at all.

- Does the reference to naming schools in the IDP relation to special school / provision ?
- In relation to children under 3 what does 'educational' provision mean? There is a wide range of pre – school settings so this needs to be defined further.
- In terms of ALP for LAC pupils placed out of county, who has responsibility for this? Will the 'belonging regulations' be reformed alongside this Bill?
- There will need to be significant development around provision for pupils 16-25 – currently health & social care are only planning up to 18 – how will this fit?
- Further definition is required in relation to the child's interest requiring ALP being made at a school

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- In principle it was agreed that the IDP is an improvement on the current system but it is not really a unified plan – the EHC Plan in England seems more robust and appears to tie health and social care in more effectively. A question was raised whether an education Bill can impose duties on health – the answer seems to be 'no'.
- The workload associated with the production of IDPs at all levels of ALN was a concern – there are also significant training implications.
- What does an IDP look like? Will there be templates? The quality of IDPs needs to be monitored otherwise they will become as ineffectual as the current IEPs.
- The Bill doesn't mention who would provide advice in contributing to the IDP, especially in making the decision over whether ALP is required.
- The Bill does not provide guidance on the assessment of need and who contributes to the preparation, maintenance and review of IDPs.
- There is no definition or guidance on when it would be reasonable for schools/parents/children to request the LA to take responsibility for the IDP.

- There is no guidance on at what point an IDP should be handed back to the school as the child's needs become less complex.
- There is no mention of an EP role
- There is also no guidance on how the LA should maintain an IDP in the context of increased delegated funding, or indeed, securing ALP for young people moving into FEIs.
- Special Schools have the most complex and vulnerable pupils so will by default need to have the most comprehensive IDPs – how these are going to be managed is not referred to in the draft Bill.
- It was felt that there needed to be an increased focus on 'outcomes' not 'input' and what can be achieved ('actual' outcomes not 'desired' outcomes)
- The practical and financial impact of extending the age group to 25 needs to be considered.
- The inclusion of Person Centred Practice and the increased participation of children and young people was welcomed and acknowledged to be a positive aspect of the reform.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

- It is encouraging that the draft Bill (and draft Code) supports inclusion and that there is an expectation of high quality teaching for all.
- IDP need to be outcome focussed but there needs to be a way that interventions are tracked and monitored so that there is a high level of quality assurance around provision for pupils with ALN.
- It was felt that high aspiration and improved outcomes would mean nothing if the current way of publishing data continues. Special School outcome data is not even published which may led to a question about

the culture of inclusion and high aspirations for all

- It is important to promote appropriate and relevant high aspirations and improved outcomes that are realistic and achievable (not just academic outcomes in relation to literacy and numeracy, but in terms of improved participation and contribution to society).
- There does not appear to be any link with / role for school improvement challenge advisors in relation to the above.
- The recognition of the need for a designated ALNCo but there is concern as to how this would be achieved without any additional resourcing. Small schools have no capacity to have one person in this role. There would be an expectation that with increased responsibilities the ALNCo would attract a TLR – may school are in difficult financial positions and could not afford this. Many existing staff would not wish to undertake such a role.
- It is not clear how the ALNCo role fitted into pre-school provision

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- The draft Bill and Code needs to be far more explicit on the role health service play and how they will input into the IDP and delivery of provision.
- There is no confidence that under the current systems health & social care colleagues have the capacity to support the proposed reforms.
- If it is intended that there is a DMO per health board there is concern that responsibilities for one individual within that role would be unmanageable.
- There are significant resource implications for all agencies – the implications for health visitors was highlighted as a concern.
- It was concerning that the only reference to Social Care seemed to be in relation to LAC plans and how these could be incorporated in the IDP. The role Social Care teams should be expanded. Should they also have a Designated Officer?

- There is no clarity in the Bill over how the IDP will incorporate, existing Children's Services plans and Health Care plans.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- We do not agree that the draft Bill provides an appropriate framework as without clear parameters and criteria around the definition of ALN & ALP there is likely to be an increase in disagreements.
- There is the possibility of increased ‘tension’ between schools and LAs if schools consider that despite ‘best endeavours’ they do not have the capacity to manage some pupils with ALN. Without agreed criteria which support a more graduated response to ALN then it would be difficult to have a robust discussion on respective roles & responsibilities
- There is concern, that the Bill may lead to an increase in appeals/disputes, which is contrary to what the Bill is hoping to achieve. It opens up the appeal process pre, during and post IDP preparation, This leads to workforce concerns (demands on time and the capacity, and the opportunity to seek appropriate advocacy services for CYP)
- There will need criteria to ensure consistency and transparency in allocation of ALP to meet ALN and, in so doing, avoid, appeals and disputes.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

- There are still too many gaps in the documentation and language is non specific which may further add to the potential for interpretation.
- There is significant concern around the notion that this reform is cost neutral. The costs detailed to support governor & LA training are not realistic
- The explanatory memorandum significantly underestimates the cost and time resource implications in working with the extended age range.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

- Resourcing (funding and workforce)
- Detail regarding the transition period
- The role of Special schools and resource bases
- Capacity issues in the context of the financial climate
- Very limited detail and range and availability of specialist support services that are needed to support schools and FE institutions in delivering the graduated response.
- The role of educational psychology.
- Lack of guidance contained within the Draft ALN Bill and Draft Code, in relation to the assessment of ALN that will inform the development of the IDP and ALP.
- Timescales for IDP production for CYP with more severe and complex ALN need to be realistic for both schools and LAs, especially where schools will need to seek external assessment and intervention, from for example an EP or other external specialists, to fully understand CYPs ALN and plan appropriate ALP.
- There needs to be clarity over who is best placed to contribute to the content of an IDP, where specialist advice is required from a multi-agency perspective.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Julian Hallett

Organisation (if applicable): The Down's Syndrome Association

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree		Neither agree nor disagree	
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Supporting comments

We are concerned that the broadening of the scope of legislation towards ALN (from SEN) and the resulting increase in workload and expanding remit for ALNCos could see a diversion of focus and expertise away from those pupils and students with the most significant needs and a possible diluting of scarce resources.

Whilst we welcome the move towards a system that encompasses 0-25, we see little evidence of how this will be achieved in practice. There is an insufficiently robust requirement upon health professionals to initiate assessment processes amongst children within the Early Year 0-5 age range (given that health is the main agency that will engage with this age group, this is an inherent weakness). There appears to be little mention made of Early Support Wales, which, where this model of working is provided, provides a successful programme of multiagency working. This is a missed opportunity and fails to build upon previous Welsh Government investment in this worthwhile programme of support for disabled children aged birth-5.

At the upper-age range, it is very unclear how FE establishments will take over the responsibilities for an IDP. The role of ALNCo doesn't currently exist within many FE settings and where a few settings have appointed to this role, the status and function of these education professionals is weak. There needs to be a great deal of capacity building and training for colleagues working in post 16-19 provision to develop the knowledge and skills to ensure this framework would work.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

It is essential that settings have a meaningful IDP template from which to work. In the absence of this, we cannot, without any confidence, say that IDPs would be any better than the current Statementing process.

We are also concerned that the responsibility for the IPD lies with an individual school and it is unclear at what point the local authority will become involved (specially for pupils with more complex needs).

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

So much of the detail of improved aspirations and outcomes is reliant on the implementation of (yet to be published) Code of Practice that the draft Bill provides very limited assurance that improvements would be achieved.

Whilst we are very supportive of mainstream inclusion for children with Down's syndrome where this type of placement is considered appropriate (following a comprehensive multidisciplinary assessment) we would be concerned if the Bill reduced the availability of specialist provision on a local basis, especially for pupils with Down's syndrome with more complex needs (including those with a dual diagnosis of ASD).

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill is weak in terms of the requirements for health to undertake a proactive role in ensuring that needs of children are properly assessed and a requirement to make provisions to ensure successful outcomes are achieved.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

We feel that disagreement resolution and formal tribunal should be able to run concurrently, or else this could, in many cases, result in a tactical delay in a child receiving the support they need.

Any disagreement resolution service needs to established and funded entirely separately from the local authority infrastructure, or else it will not command the confidence of families who may wish to use it.

We would wish to see some safeguard to ensure that a monitoring process exists to identify schools or local authorities that have a significant number of complaints brought against them (and where these are resolved before the Tribunal stage) or else many settings that ‘persistently offend’ could lurk beneath the radar

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Please note that The Down's Syndrome Association has been an active member of the TSANA group and has contributed to and endorses the response submitted in the name of TSANA. Supplementary information has been provided in that submission, including papers we provided as part of a *Task and Finish Group* convened by Welsh Government during the spring and

summer of 2015.

Our Wales Manager also gave evidence to the Children, Young People and Education Committee in November and made comments which contributed to the letter written from the Chair, to the Minister on 10 December 2015.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The Bill appears to have a 2 tier system, but it is not clear that it is such. It will be very confusing to parents that there are 2 types of IDP, **one maintained by the school and one by the local authority**. There is a significant risk that parents may think they are getting something that they are not.

The school maintained plans will create additional duties on governing bodies which would necessitate additional training and resources.

The power to name a specific school only applies to LA maintained plans and the draft Bill removes the duty to name parental preference subject to conditions.

As previously stated, there is still a general duty to educate children in mainstream, but this may be subject to regulations as yet unspecified. We are concerned that this may lead to a decrease in inclusion by the back door.

Stronger duties are needed on health boards / NHS trust to make provision in and clarification is needed regarding the status of therapies as education /health provision

In summary. The changes could be good for children who are currently on school action / school action plus with no duty on the school to make provision. Children with very severe and complex needs will probably all get LA maintained plans. A lot of children with Down's syndrome will sit somewhere in the middle and may lose out.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Consultation
response form

Your name: Sian Jones

Organisation (if applicable): NPTC Group

e-mail/telephone number:

Your address:

Responses should be returned by 18 December 2015 to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	x
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The College supports the move to the use of the term 'ALN' and the removal of the stigma associated 'special educational needs'. The new term recognises that additional learning needs do not cease when a learner enters post 16 education.

However the College has some concerns regarding the definition of Additional Learning needs.

- Greater clarity is needed to define exactly what is meant by 'significantly greater difficulty'
- Clear guidance would be needed for some categories of ALN e.g. mental health, gifted and talented, medical and social issues,

There are also some concerns about the ability and capacity to supply sufficient ALP in Further Education to meet Additional Learning needs for learners to the age of 25, particularly within the current climate of reduced funding in Further Education.

The explanatory guidance suggests that FEIs would not incur any additional costs (7.157), however this does not take into account the 0-25 age and the need for ALP for an extended period for learners. If learner's needs are to be successfully met for this extended period then adequate levels funding would be required.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The College welcomes a move towards a more person-centred approach with greater active participation by the learner and their families.

The draft Bill appears to set out a robust legal framework for the preparation, maintenance and review of IDPs, however in practice, making this a legal requirement for post-16 learners will need a transition period to ensure that FEIs are supported in being able to comply. In particular the following will be needed:

- Study the capacity of FEIs additional duties and its resources with regard to holding reviews, its recording and circulating of information etc. time management and cost of this process
- Consider the roll out of the new IDP process. Who will have responsibility for creating/setting up IDPs for all learners who happen to be at the college in September 2016 – none will have IDPs at this stage? Time scale to produce?
- Guidance with regard to responsibility for producing, reviewing and ceasing IDPs
- Consider and provide guidance conducting the planning/review process. There will be variety in the time required for learners with minimal needs and those with complex needs. FEIs need to know whether a 10 minute review for a learner with few needs is acceptable
- Support to develop information sharing procedures and multi-agency working with Service Level Agreements between organisations

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- The introduction of a PCP and ALP for ALN students is positive and will aim to promote and protect the interests of children and young people
- To ensure the above, practitioners from all sectors will require training and appropriate skills to develop PCPs, IDPs and conducting reviews
 - The Bill promotes a single and consistent process which will help soften transition points and provide benefits for students and practitioners
 - There needs to be more clarity on transition to HE in terms of the

relationships and responsibilities between FE and HE providers

- Providers will need to understand their obligations and responsibilities for students that opt out of the process
- IDPs will need to have realizable outcomes and robust reviews in order that students are fully prepared for progression to achieve transition in terms of selecting appropriate courses of study, appropriate methods of transport and appropriate support
- There is already considerable pressures on FE financial and human resources, so additional resources will be required if the objectives of the Bill are to be delivered
- The ALNCo role is pivotal and commitment to funding these posts will be necessary if students are to receive the support detailed in the Bill
- The remit of the ALNCo is almost too broad, ranging from strategic to operational
- The size (both in terms of learner numbers and geographical area covered) of an organisation should dictate how many ALNCo posts are required

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The College welcomes the inclusion of an insistence that agencies work together to deliver for children and young people with ALN. This is urgently needed; however the practicalities of this are often complicated particularly for FEIs with a geographical spread of campuses that include many feeder schools, more than one local authority and health authority and multiple agencies that they need to work with. If this is to work in practice then

- Agencies will need to be able to ensure that they have capacity to be responsive and adhere to timescales/deadlines. Adding something as a legal requirement does not always ensure its success - despite the legal requirements to produce timely learning and skills plans, these have often been received late because of a lack of capacity within Careers Wales
- Information sharing protocols will need to be effective with information easily accessible in consistent formats
- Information could be collected on a shared data base – this may be

- difficult to put in place across Wales with responsibility now with a range of local authorities
- Clarification of what provision and support each agency is responsible for should be agreed through SLAs
 - The role of the Local Authority will be key, particularly within the transition phase. This responsibility is currently with Careers Wales. Do Local Authorities have the capacity for this work? Are they able to act independently always in the learner's best interest? There is the potential for the LA to become the dominant partner
 - The role of the Third Sectors expertise and community based services need to be recognised and included
 - Evidence of good practice multi agency working currently exists in Neath Port Talbot where the Neath Port Talbot Council For Voluntary Service and the Think Family Partnership Support Team facilitate a Children With Disabilities Advisory Group
 - There will need to be equitable allocation of resources per organisation
 - There is limited reference to the Careers service and its role
 - Investment in developing a multi –agency framework for delivery to ensure efficient use of local resources

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The Bill appears to have a concise framework which deals with appeals, however further clarity in relation to the process of avoidance and resolution of disagreements would be welcomed.

There are concerns regarding the new duties and responsibilities for FEIs and the likelihood of an increase of tribunals and appeals associated with the extension of the age range of learners within the legal framework.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The College welcomes some of the comprehensive guidance that has been produced in documents such as the draft explanatory memorandum, the draft ALN code and the PCP review toolkit. It is recognised that even more useful information to clarify the new legislation will be within these documents. However, there is a real danger of an information overload and a need for simple, short guidance provided in a variety of media to make the information accessible to all.

Practitioners and managers will need to be able to access awareness sessions and professional development sessions that cover the following topics identified earlier in this response:

- Understanding responsibilities within the new legislation
- Person centred practices – keeping the learner at the heart of the process, supporting parents
- Assessment of need
- Producing and maintaining IDPs
- Role and responsibilities of the ALNCo
- Transition – best practice in multi-agency working
- Developing and using information sharing protocols
- Understanding the framework to support disagreement avoidance and resolution

The development of case studies to show best practice and provide material for CPD would also be welcomed

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

December 2015



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. The WLGA is guided by a number of key principles which underpin the work of the Association and have helped to shape this response to the draft *Additional Learning Needs and Education Tribunal (Wales) Bill*. The WLGA believes that decisions about services should be taken as close point of delivery as possible and that the people and communities using those services should be as engaged as possible in their delivery. It is also our belief that local services should be provided within a democratic framework of local accountability.
4. The WLGA recognises that it is the role of the Welsh Government to set the strategic framework and policy direction for services at a national level and that it is the role of local government to deliver those services taking account of the local circumstances and pressures. It is also recognised that services must be provided within a proportionate but effective regulatory framework to ensure that public resources are used appropriately and that services are delivered effectively and efficiently.
5. The WLGA has consistently argued for an un-hypothesized revenue support grant (RSG) as the best way of funding local government and any new responsibilities or additional burdens placed on local government should be fully costed and appropriately funded.
6. The WLGA recognises that some policy initiatives or strategies need to have funding attached to them for specific periods of time to make sure that they become embedded and are delivered as intended. For this

reason, the WLGA, by exception, supports the use of specific grants on the understanding that funding will eventually return to the RSG.

7. The WLGA is pleased to be able to respond to the consultation on the draft *Additional Learning Needs and Education Tribunal (Wales) Bill*. This is a joint consultation response on behalf of the WLGA and the Association of Directors of Education in Wales (ADEW). Individual local authorities may submit their own responses reflecting their own views on the draft Bill.
8. The WLGA supports in principle the overarching policy objectives and core aims of the draft Bill. The Association welcomes the continued engagement of education and other relevant professionals in informing and developing the legislation and guidance.
9. The new statutory ALN Code will be paramount to the delivery of the Bill's provisions. It is helpful that a first draft of the Code has been made available to help inform consideration of the Bill. The WLGA and local government are pleased to be represented on the Welsh Government's ALNET Code Content Development Group and look forward to working on the detail of the draft Code over the coming months. It will be vital to ensure that the Code provides clarity on key issues such as the role and duties of local authorities, the Individual Development Plan (IDP) process, how the voice of learners and parents is taken into account, multi-agency working, disagreement avoidance/resolution and appeals to the Education Tribunal.
10. Local authorities are currently facing an extremely challenging financial situation. The WLGA estimates that £720m has been cut from local services in Wales since 2010 and, although the provisional local government settlement for 2016-17 is better than expected, the position is unclear for future years. Further cuts to council budgets are likely, putting a continued strain on authorities' finances. All authorities are looking to make efficiencies and savings to enable the continuation of delivery of essential services. The WLGA has consistently made the point – most recently in responding to the Welsh Government's consultation on the ALN White Paper in 2014 - that the financial impact of the Bill and any subsequent changes to delivery introduced as a result must be fully costed and financed by Welsh Government. The Association and

ADEW are happy to work with Welsh Government to develop realistic costings for the introduction of the proposals within the Bill.

11. Having considered the draft Bill and accompanying draft Explanatory Memorandum (EM) – which includes the Regulatory Impact Assessment - and the first draft of the new Code, the Association has ongoing concerns about resource and capacity issues resulting from the proposed changes, new duties and expectations on local authorities. There are a number of areas where the WLGA and local authorities would like to work further with Welsh Government to identify more accurate costings and to clarify what resources will be put in place to ensure timely, quality and appropriate provision, these areas of concern are outlined below.
12. Unified legislative framework: Local government supports the principle behind a unified legislative framework to support children and young people aged 0-25 years who have ALN. It is essential, however that the full practical and financial impact of extending the age range is fully considered and costed. For example, in relation to the provision of information and advice services by local authorities, the EM states (paragraph 7.144) that these will need to be “refreshed” to reflect the new ALN system and also extended to ensure they cover the rights of children and young people up to the age of 25.
13. The EM rightly acknowledges that there is the potential for a larger caseload in catering for the extended age range but states *“it is not possible to quantify a cost to local authorities for this”*. The WLGA and ADEW understand the difficulties in quantifying such costs, however, it is essential that an attempt to do so is made to enable Welsh Government to ensure that adequate funding is made available to implement the provisions in the Bill and that local authorities can effectively plan and budget for the changes, given the current financial constraints faced by councils. The WLGA would wish to explore these costs in more detail with local and central government colleagues.
14. Communication and awareness raising: the WLGA and ADEW fully supports the assertion in the Bill that one of the key principles of the draft implementation plan is that there should be sufficient time for

learners, families and relevant professionals to become aware of the Bill's proposed changes and to prepare for their impact. The costs and benefits section of the EM makes some estimates of the costs to Welsh Government in developing/promoting the new Code, revising governor training materials and providing awareness sessions to local authorities and ALNCO networks.

15. The WLGA would like to see greater recognition of the resource and capacity issues for local authorities of raising awareness of the new system among parents/carers, and in managing their perceptions and expectations during the transition phase, which will need to be done carefully and sensitively. If sufficient time and resource is not given to this area then this could lead to unnecessary disagreement between families and schools or local authorities which will not only be an additional resource but will also increase the anxiety for families when moving to a new system of support for learners.
16. Training staff in schools, local authorities and other partners in relation to developing and assessing IDPs. This is the cornerstone of the legislation so it is essential that all staff are fully and appropriately trained, in all relevant settings and in English and Welsh language. There will be a significant impact in terms of training school staff and ALN Coordinators in particular. The aim of the IDP process should be to create a simple and accessible process to support, and provide clarity, for parents, children and young people and practitioners involved. One of the stated principles of Welsh Government's draft implementation plan is that there should be "*a programme of training delivered to professionals who will be actively engaged in delivering IDPs*". As yet there are no details of this programme or how it will be funded. Local authorities are keen to discuss options and costs for this training with Welsh Government colleagues.
17. Post-16 specialist placements: the Bill provides for the current duty on Welsh Ministers to secure specialist post-16 education for a child or young person where the IDP indicates this is necessary to meet their needs, to transfer to local authorities. It is the view of the WLGA and ADEW that further consideration is needed as to how this transfer of duties will work in practice. It is essential that the transition process is

managed carefully and that families, local authorities, Further Education Institutions (FEIs) and specialist post-16 providers are given the necessary time, resources and support to adapt to the changes.

18. The costs associated with supporting post-16 pupils with ALN can, in some instances, be substantial. Whilst WLGA welcomes the proposed transfer of funding (currently £10.4m annually) from Welsh Government to the Revenue Support Grant (RSG) for this purpose, along with the funding for the administrative element of the role (£179k per annum), there is a risk that the current quantum of funding will be less able to meet the needs of relevant learners once spread across 22 local authorities, given that by and large the distribution formula works on population distribution, rather than on following the needs of these individual learners. The WLGA and authorities look forward to working with Welsh Government to agreeing the distribution of this funding through the Distribution Sub-Group. The WLGA would also like Welsh Government to give consideration to transferring into the RSG the annual costs which the EM identifies will be saved by Careers Wales in no longer having to prepare Learner Support Plans (LSPs) for this category of learner or support their applications to Welsh Government for funding (£147,530 and £32,600 respectively – paragraph 7.172).
19. Disagreement avoidance/resolution and Education Tribunal: Tribunals are timely, costly and stressful for both families and the local authority and it can lead to a breakdown in the relationship between the two parties. The WLGA supports the proposals that local authorities should put in place arrangements to avoid and resolve disagreements before progressing to a tribunal. As noted above, further consideration needs to be given to the costs to local authorities of reflecting the changes to the ALN system and the extended age range.
20. In relation to tribunals, the EM notes (paragraph 7.146) that the person-centred practice (PCP) approach and greater involvement of learners and their parents in decisions should result in a reduction in Tribunal appeals. However, later on (paragraph 7.180 in relation to Tribunal costs) the EM recognises "*There is a possible risk that the PCP and disagreement resolution service will not deliver the intended positive impact in reducing the number of appeals arising*". The WLGA welcomes Welsh Government's stated commitment to ongoing monitoring of

appeal rates but would make the point that any rise in the number of appeals would impact equally on local authorities' resources and costs as on the Tribunal's.

21. Collaboration between local government and health: the health service is a key partner in the delivery of some of the services required to support children and young people with ALN, particularly learners with more complex needs and also in early identification of needs in the 0-3 age range. The WLGA welcomes the new duty on Local Health Boards (LHBs) to appoint a Designated Medical or Clinical Officer to have responsibility for coordinating the LHB's function in relation to ALN. There are many examples of local health services working in partnership with local authorities in the provision of services for learners with additional needs. However, local government has some concerns about the imbalance in the draft Bill between the roles and responsibilities of local authorities and those of LHBs. Similar concerns are reflected in the National Assembly's Children, Young People and Education Committee response to the consultation on the draft Bill.
22. Section 14 of the draft Bill requires an LHB to agree to secure specific health provision before such provision can be included in an IDP. Local government considers that the Bill should be strengthened to put a statutory duty on LHBs so that where a health need is identified, there is a duty on the LHB to secure and deliver the provision to meet it. This should be underpinned by greater clarity in the Bill and/or in the Code as to where responsibility/accountability lies if the identified health needs are not met or only partly met; and the path for redress in such circumstances. It is the view of the WLGA and ADEW that this would enable enhanced clarity of the role for each sector which would improve the outcome for the learner.
23. Finally, the WLGA and ADEW welcome the outline of plans for implementation and looks forward to further discussions on it with Welsh Government. The outline draft implementation plan suggests a five-year transition period which is welcomed. It is vital that transition is planned and managed effectively. The WLGA would make the point that depending on future events, it is possible that implementation will take place over the same time frame (in part) as local government

reorganisation in Wales. If so, the backdrop of change and uncertainty that will beckon will make that transition even more challenging.

CONCLUSION:

24. The Bill is an important piece of legislation, the principles of which are welcomed by local government. Much of the detail will be contained in the new ALN Code. The WLGA and local authorities welcome Welsh Government's commitment to continued engagement with all stakeholders to shape the legislation and guidance. Local government looks forward to playing its part to ensure the new system leads to improved outcomes for children and young people with additional learning needs in Wales.

For further information please contact:

Dr Chris Llewelyn, Director Lifelong Learning, Leisure and Information

Date / Dyddiad: 18 December 2015

Subject / Pwnc: Response to the Consultation on the Draft Additional Learning Needs and Education Tribunal for Wales Bill

Background information about the Children's Commissioner for Wales

The Children's Commissioner for Wales is an independent children's rights institution established in 2001. The Commissioner's principal aim, under the Care Standards Act 2000, is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC), as stipulated in regulation 22 of the Children's Commissioner for Wales Regulations 2001. The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18.

It is the most widely ratified international human rights instrument and gives children and young people a wide range of civil, political, economic, social and cultural rights which State Parties to the Convention are expected to implement. In 2004, the Welsh Assembly Government adopted the UNCRC as the basis of all policy making for children and young people and in 2011, Welsh Government passed the Rights of Children and Young Persons (Wales) Measure, which places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

My responses to specific consultation questions are below. I have not responded to every consultation question but only to those of direct relevance to my remit.

INTRODUCTION

I welcome Welsh Government's intentions to introduce a new legal framework that brings together the existing requirements of Part IV of the Education Act 1996 with the support provisions for young people with learning difficulties and/or disabilities as set out in the Learning and Skills Act 2000. This draft Bill (hereon referred to as 'the Bill') signals an important point of progress in developing a unified framework of support for children and young people with additional learning needs in Wales.

I have provided significant narrative on the majority of sections in the Bill. For some parts, however, it was difficult to fully discern the potential impact on children and young people. It is important for Welsh Government to note that several sections of the Bill referred to regulations that have yet to be drafted and this lack of detail has made it difficult to provide a fuller consultation

response. There are, however, key themes running throughout my response including:

- A call for a duty to be placed upon persons exercising proposed functions to pay due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Disabled Persons (UNCRDP);
- My call for statutory duties upon Local Health Boards and NHS Trusts to assess need and secure health related additional provision for children and young people with additional learning needs;
- My call for strengthened compliance, sanction and enforcement powers to be given to the Education Tribunal for Wales;
- My call for additional learning needs resources to be ring-fenced, appropriately distributed and for spend to be monitored by regional education consortia;
- That the Bill should do more to sufficiently balance a young person's right to be heard with the rest of the articles found within the UNCRC;
- My call for the proposed advocacy entitlement under this Bill to effectively complement provisions laid down by the Social Services and Wellbeing (Wales) Act 2014 to avoid any potential disparity of provision for different groups of children and young people.

QUESTION 1 – THE INTRODUCTION OF THE TERM ALN AND A 0 – 25 AGE RANGE

DO YOU AGREE THAT THE DEFINITIONS OF ALN AND ALP SET OUT IN THE BILL APPROPRIATELY REFLECT OUR INTENDED FOCUS ON EDUCATIONAL NEEDS AND DO YOU AGREE THAT THE BILL WOULD DEAL PROPERLY WITH THE AGE RANGE IT SETS OUT TO CAPTURE?

Agree x

Section 2: Additional Learning Needs – Agree

I agree with the term "Additional Learning Needs" as presented within the draft Bill. During the White Paper consultation stages, my predecessor provided written evidence supporting the view that many children and young people welcomed a move away from the term 'Special Educational Needs' as they felt that it had negative and demeaning connotations. The term 'Additional Learning Needs' reflects a more holistic approach to responding to the learning support needs of children and young people.

Extending legislative provision to cover children and young people aged between 0 – 25 years old is welcomed, although I am concerned how this extension will be sufficiently resourced and monitored. Whilst Section 68 sets out the range of legal interpretations within the Bill, Section 2 could do more to explicitly outline the legal interpretation of what is meant by the terms 'child' and 'young person'. This is important because provision made throughout the rest of the Bill treat children and young people differently. The Bill currently

describes a young person as someone who is above compulsory school age. In line with Articles 1 and 2 of the United Nations Convention on the Rights of the Child, I would like the Bill to extend the definition of a ‘child’ to cover anyone aged under 18. This would provide a parity of rights for all children, as defined by the UNCRC, with additional learning needs. The provisions relating to young people in the Bill would then be consistent with the rights associated with attaining the age of majority. If this cannot be achieved, then the Bill should introduce legislative provision that sufficiently balances a young person’s right to be heard with the right for their best interests to be given paramount consideration.

Section 3: Additional Learning Provision – Disagree

I do not agree with definition of “Additional Learning Provision” under this section of the Bill. Section 3(1) refers to provision “that is additional to, or different from, that made generally for others of the same age”. It is my view that the inclusion of the term “different from” blurs the distinct boundary between existing responsibilities to differentiate classroom-based teaching and any additional learning support provision. Providing differentiated teaching does not necessarily mean that an individual child or young person has additional learning needs. Indeed, paragraph 108 of the draft Code of Practice presents confusion on this matter and provides examples of ‘differentiated teaching’ that could be considered as ‘additional learning provision’ e.g. “catch-up reading sessions, or a catch-up Welsh lesson following a short absence due to illness”. It is my view then that the term “different from” doesn’t achieve its intended aim in Section 3(1).

Section 3(2), (3) and (4) set out to describe “Additional Learning Provision” for children under compulsory school age. The rationale as to why Section 3(3) and (4) distinguishes between provision for children below the age of 3 and children aged between 3 and 4 years old remains unclear. Separating out these provisions could, as an unintended consequence, result in an inequity of appellant rights between children accessing nursery education in a maintained setting and those accessing non-maintained settings.

Section 9 of the Bill places a duty upon the governing body of a maintained nursery school to establish an Individual Development Plan (IDP) when it is identified, or otherwise appears, that the registered child may have additional learning needs. Should disagreement arise relating to the determination of additional learning needs or to the detail contained within the IDP then reconsideration, disagreement and resolution is facilitated by the local authority as required by Sections 17 and 37 of the Bill. Appeal processes to the Education Tribunal for Wales are established under Section 40 thereafter.

In contrast the procedures laid down by Sections 17, 37 and 40, state that where a child is registered in a nonmaintained setting and a referral is made then it is for the local authority (under Section 12(1)) to determine whether or not a child has additional learning needs and to establish an IDP. Where there may be disagreement with the decision or the content of an IDP in this case,

then appeals to the Education Tribunal for Wales against the local authority may be initiated immediately under Section 40.

With this in mind, we should consider the presentation of two identical cases where each child is aged between 3 and 4 years old. Both have presented with the same or similar needs that call for the same or similar additional learning provision. The only difference between them is that one child is registered at a maintained setting and the other at a non-maintained setting. The inequality of rights emerges when a decision or IDP is contested. Where dispute arises for the child attending the non-maintained setting then the appeal is heard by the Education Tribunal for Wales. Where the dispute may arise for the child attending the maintained setting, then reconsideration and disagreement resolution should take place at the local level. This case could remain unresolved for quite some time and where resolution is not achieved, it is only then that appeals under Section 40 can be heard by the Educational Tribunal for Wales. This would place children in maintained settings at a disadvantage in having their needs met compared to those attending non-maintained provision. There is a significant risk that the individual needs of children registered at maintained settings could become lost within these processes and that time-intensive disagreements could have a negative impact upon a child's development and wellbeing.

It is my view that Section 3 should make no distinction between provisions for children under compulsory school age and I advocate for all such cases to rest with the local authorities. This would provide redress to the inequality between maintained and non-maintained settings referred to in the paragraph above.

QUESTION 2 – A UNIFIED PLANNING PROCESS WITHIN INCREASED PARTICIPATION BY CHILDREN AND YOUNG PEOPLE

DO YOU AGREE THAT THE BILL WOULD CREATE A ROBUST LEGAL FRAMEWORK FOR THE PREPARATION, MAINTENANCE AND REVIEW OF INDIVIDUAL DEVELOPMENT PLANS (IDPS)?

Agree x

I welcome Welsh Government's intentions to introduce a new legal framework that unifies the existing legislative requirements of Part IV of the Education Act 1996 with the support provisions for young people with learning difficulties and/or disabilities set out in the Learning and Skills Act 2000. It is clear to me that the Bill seeks to establish a common framework of support for children and young people with additional learning needs but it is my view that the legislative provisions under Part II of the Bill could be strengthened to provide a greater focus on child-centred practices and give further effect to the whole of the UNCRC:

There is a need for the Bill to distinguish between school based IDPs and LA based IDPs. This will enable practitioners, children, parents / carers and

young people to clearly see the difference between the two and give a better understanding of roles and responsibilities and processes involved.

Section 4: Additional Learning Needs Code

I welcome the provision for Welsh Ministers to issue a new Code of Practice. It is, however, my view that the Bill can do more to strengthen the status of the Code for persons exercising functions under any new additional learning needs Act. Given the cross-sector and interdisciplinary nature of additional learning provision, any new iteration of the Bill should provide legislative alignment with the Social Services and Wellbeing (Wales) Act 2014, particularly given that the Bill intends to make provision for Looked After Children and Detained Persons.

Section 5: Procedure for Making the Code

In line with Article 12 of the UNCRC, I would like Section 5(1) to establish legislative provision which requires Welsh Ministers to consult children and young people and their parents or primary caregivers before issuing or revising any new Code.

Section 6: Duty to involve and support children, their parents and young people

I welcome the provisions set out by section 6 of the Bill which require persons exercising functions to ensure that the views of children, their parents and young people influence, as far as possible, the relevant decision-making processes relating to their additional learning needs. It provides statutory protection to person-centred planning and gives further effect to Article 12 of the UNCRC.

I am concerned that the Bill has not sufficiently balanced a young person's right to be heard with duty-bearers' responsibilities to give primary consideration to an individual's best interests (Article 3 of the UNCRC). Section 11(2), Section 13(3) and Section 59(2) of the Bill nullifies duties to establish an Individual Development Plan should a young person not consent to a decision being made. I am concerned that this position gives no consideration to what might be in the best interests of an individual young person and does not give due consideration to their individual evolving capacity. Simply removing all support on the basis of a young person's refusal could result in an absence of additional learning provision that should have been established to meet that young person's individual best interests, rights and wellbeing needs. Any new iteration of the Bill must, as far as possible, establish legislative provision that addresses this tension.

In addition, Section 6 does not sufficiently recognise that a child's immediate care and support needs might be provided by somebody other than a parent. Where this may be the case, every effort should be made to involve a child or young person's carer (including those with delegated authority, e.g. foster

carers) in decisions relating to the exercise of functions under any new additional learning needs Act.

With both these points in mind I would like to see a specific reference in the Act to a requirement for authorities to pay due regard to both the United Nations Convention on the Rights of Children and the United Nations Convention on the Rights of Persons with Disabilities

Section 11 – Circumstances in which the duties in sections 9 and 10 do not apply

(2) This subsection applies if the person concerned is a young person who does not consent to the decision being made. **A governing body of a maintained school or further education institution must, however, be satisfied that this decision reflects the best interests of the young person.**

It is important to be clear as to how a governing body would determine what was in the best interest of the young person as they may not have the knowledge or expertise to determine this themselves.

Section 7: Advice and Information

It is unclear to me as to why the existing requirements for local authorities to make arrangements for independent information, advice and support in relation to special educational needs have been omitted from this section of the Bill. Given that the Bill establishes greater expectations for local authorities to facilitate disagreement resolution processes, in addition to maintaining the existing responsibility of more complex cases, then it is my view that children, young people and families must be provided with access to independent information, advice and support (for example, independent Parent Partnership Services). In addition the inclusion of the term “as it considers appropriate” could result in a national inconsistency of information, advice and support provision as arrangements could differ from local authority to local authority. I would expect Welsh Ministers to prescribe minimum requirements for independent information, advice and support within any new Code.

Section 8: Individual development plans

I welcome provisions made under this section of the Bill to establish a statutory unified planning process for children and young people with additional learning needs. It is, however, unclear within the draft Code how this will be effectively established in practice, particularly in responding to lesser and more complex additional learning needs.

There is a significant lack of detail within the draft Code to support governing bodies and local authorities to effectively address this, and it may result in a postcode lottery in quality and provision of IDPs. The draft Code should bestow duties upon persons exercising functions to follow a robust pro-forma

when establishing an IDP – any description of additional learning provision contained within an IDP must be detailed, specific and quantifiable.

Sections 9 & 10: Individual development plans: maintained schools and further education institutions

I welcome provisions made under Sections 9 and 10 of the draft Bill. However I am concerned about the extent to which budgets would be delegated to governing bodies and what information would be used to determine the proportion of allocation. Within the Regulatory Impact Assessment (RIA), it is unclear as to how the proportion of delegated budgets would effectively balance the requirements of governing bodies and local authorities to meet the additional learning needs of children and young people in their area. It is also unclear from the RIA as to how the spending arrangements of governing bodies will be effectively monitored to ensure that actual spend meets the additional learning needs of individual children and young people. During the White Paper consultation stages, my office called upon Welsh Government to ring-fence budgets for additional learning needs by way of regulation and prescribe for regional education consortia to monitor governing bodies' spending arrangements. I support this position and it would provide parity with existing arrangements set out with the Looked after Child element of the Pupil Deprivation Grant.

Section 11: Circumstance in which the duties in sections 9 and 10 do not apply

Further to my previous comments relating to this section detailed in my response to Section 6, subsections (4) and (5) applies if a governing body refers a matter concerning an IDP to a local authority. In reading these provisions alongside the draft Code, it remains unclear to me as what criteria should be met for a governing body to determine that a matter is beyond its capability to decide or that would be unreasonable for the governing body to secure additional learning provision. Clear criteria should be met in order for a governing body to be enabled to make a referral to a local authority.

Section 12: Individual development plans: local authorities

I welcome the provisions made within this section, however, I would like to draw attention to subsection (3)(c)(ii).

Currently, the Bill sets out that should a local authority decide that a young person has additional learning needs then it must prepare and maintain an IDP to meet an individual's 'reasonable needs'. Without sight of draft regulations pertaining to this section, it is unclear to me as to what would be considered as a 'reasonable need'. I would, therefore, like this term to be replaced with 'assessed needs'.

Section 13: Circumstances in which the duty in section 12 do not apply

Please see my response to Section 6 for suggested amend.

Section 14: Individual development plans: Local Health Boards and NHS trusts

I am disappointed that the Bill doesn't intend to bestow stronger requirements upon Local Health Boards (LHBs) and NHS trusts. It is of considerable concern to me that the inclusion of the term 'it has agreed to secure' within this section places little or no duty upon LHB or NHS trusts to the meet health related additional learning needs of children and young people. It is my view that this is contradictory to the core principles of the NHS¹ and directly contravenes Articles 6, 19, 23, 24 and 27 of the UNCRC. The United Nations Committee of the Rights of the Child interprets a child's right to health as:

"an inclusive right, extending not only to timely and appropriate prevention, health promotion, curative, rehabilitative and palliative services, but also to a right to grow and develop to their full potential and live in conditions that enable them to attain the highest standard of health through the implementation of programmes that address the underlying determinants of health. A holistic approach to health places the realization of children's right to health within the broader framework of international human rights obligations"

(p.3)³

1 <http://www.nhs.uk/NHSEngland/thenhs/about/Pages/nhscoreprinciples.aspx>

2 <http://www.wales.nhs.uk/nhwalesaboutus/thecoreprinciplesofnhwales>

3 UN Committee on the Rights of the Child (2013) General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24) Available online at:

http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/1_General/CR_C_C_GC_14_7202_E.doc

Accessed on: 20/11/2015

I am, therefore, calling for Section 14 to be amended to direct that when a local health board or NHS trust has determined that a child or young person has an additional learning need relating to their health then an individual development plan must describe provision in the plan on the basis of the child or young person's assessed needs

I welcome provision which secures the continuation of the Special Educational Needs Tribunal for Wales (hereafter referred to as the 'Education Tribunal for Wales') under Part 4 of the Bill. Children and young people's health related additional learning needs can often be a major barrier to educational engagement and failures of the NHS to meet these needs may have a 'knock on', adverse impact upon the success of wider additional learning provision described within an IDP. It does then seem counter-intuitive to me that subsections (6), (7), (8) and (9) provide no powers for the Education Tribunal for Wales to hold LHBs or NHS trusts to account. This is contrary to NHS Core Principles and Values, in particular 'Principle 7: The NHS is accountable to the public, communities and patients that it serves'. I am, therefore, calling upon Welsh Government to sufficiently strengthen powers of the Education

Tribunal for Wales under this Section, Section 40 and 42 to hold all relevant person exercising functions under the Act to account.

Section 15: Review of individual development plans

I welcome provisions in this section and Section 45 which require the relevant persons under the Act review an IDP within a minimum timeframe and to keep it under review throughout. In exercising these functions, however, I refer the reader back to my concerns raised in Section 14 with regard to health-related additional learning provision. In light of this, an amendment is required within this section to reflect the amendments proposed for Section 14.

It is unclear within the draft Code the extent to which arrangements for transition planning will be informed by a review. Statutory redress within the Code (and any regulations that are borne out of Section 23) is of significant importance, particularly as the extension of age range captures a greater amount of transition points in the lives of children and young people.

Section 16: Relationship of individual development plans to other similar documents

I welcome the provision made in this section. Enabling IDPs to be informed by other or similar documents relating to children and young people would go some way to supporting service providers to effectively coordinate additional learning provision around the holistic needs of children and young people.

Section 18: Reconsideration by local authorities of plans maintained under section 9

I welcome the provision made in this section, however, it is my view that in this section local authorities should also be required to provide children, young people and their parent, guardian, or carer with details about their right of appeal against local authority decisions and to provide details about the Education Tribunal for Wales.

Section 19: Local authority taking over responsibility for governing body plans

I welcome the provision made in this section, however, under subsection (2) it is unclear to me as to whether the local authority, at this stage, will be required to provide the independent advocacy services outlined by Section 38 of this Bill and/or require input from 'Case Friends' under Section 39. If this is not the case, then I would welcome amends that makes provision for it.

Section 21: Reconsideration by local authorities of decisions under section 20

I welcome the provision made in this section, however, it is my view that local authorities should be required to provide information to children, young people

and their parent or guardian on decisions made by the Education Tribunal for Wales under subsection (3) as well as their right to appeal.

Section 23: Regulations about transfer of individual development plans

I welcome the intentions of this section, however, without sight of draft regulations it is difficult to provide further comment.

Section 56: Regulations about looked after children and persons formerly looked after

You will note from my response to section 16 that I welcome strong links and integration between PEPs and IDPs. It will be important for both documents to be kept up to date and for the content of one to be informative in the preparation of the other.

Within the CCFW ‘Lost After Care’ report, young people reported to my predecessor a perceived lack of professional engagement with the development of PEPs:

“If professionals do not take this process seriously and engage appropriately with the young people how can they expect them to take an active part in making their PEP an important document? We question whether this document is seen by some professionals as another form filling exercise rather than a valuable tool to guide them in their work with looked after young people.” (p.37)

I recognise that the timing of legislative circumstance has not allowed for provisions to be made within this Bill, however, I would welcome progress on this matter in any new provision. The Bill and/or regulations must reflect the provisions made under Part 6 of the Social Services and Wellbeing (Wales) Act 2014 and sufficiently incorporate the existing PEP requirements into those for IDPs.

Section 59: Circumstance in which the duty in Section 58 does not apply

I welcome provisions made under this section, however, please see my response to section 6 for further information.

QUESTION 3 – HIGH ASPIRATIONS AND IMPROVED OUTCOMES

DO YOU AGREE THAT THE BILL WOULD HELP ENSURE THAT THE INTERESTS OF CHILDREN AND YOUNG PEOPLE WITH ALN WOULD BE PROTECTED AND PROMOTED?

Disagree x

The principal aim of the Children’s Commissioner for Wales is to promote and safeguard the rights and welfare of children. In order to maintain high aspirations and secure improved outcomes for children and young people with additional learning needs, the Bill must build on the recommendations

presented in the Successful Futures and Teaching Tomorrow's Teachers reviews. In light of both of these reviews, I am of the firm belief that a significant opportunity exists for Welsh Government to create an innovative, dynamic and robust offer of rights-based education for every learner in Wales. To successfully and sustainably achieve this intention, Welsh Government must ensure that progress for this work is underpinned and informed by the UNCRC. Proposals and changes must be indicative of a rights-based approach and be able to sufficiently demonstrate primary consideration to children and young people's best interests and wellbeing (Article 3 of the UNCRC). By 'a rights-based approach', I mean provision that sits in line with the UNCRC's General Measures of Implementation (UNCRC General Comment No. 5):

- Comprehensive strategies that are rooted in the standards and principles of the UNCRC;
- Comprehensive cross-sector plans that coordinate services for the effective implementation of children's rights across government;
- To effectively support children and young people to have their voices heard in decision-making processes that affect them;
- Ensure that children's best interests are given primary consideration and that the principles of the Convention are respected in legislation and policy development. Effective children's rights impact assessment should provide sufficient analysis of the appropriate children's rights claims and obligations of duty-bearers. This would include identifying the immediate, underlying, and structural causes where rights are not realised;
- Effective analysis of children's capacity to claim their rights, and of duty-bearers to fulfil their obligations. Analysis should lead to actions that build children's rights capacity. This might include awareness-raising amongst the general public, children's rights workforce development training for professionals, increasing the visibility of children in budget-setting or the appropriation of resources to secure rights fulfilment;
- Partnership and collaboration with the children's NGO community;
- To monitor and evaluate both outcomes and processes guided by children's rights standards and principles. Analysis would include the use of structural, process and outcome indicators for children's rights;
- Informed by the recommendations of international human rights bodies and mechanisms, UNCRC Concluding Observations for example.

In order to meaningfully establish this across Wales, a significant opportunity exists for Welsh Government to provide legislative alignment with Section 7(2) of the Social Services and Wellbeing (Wales) Act 2014 for place a duty upon all persons exercising functions under this Bill to pay due regard to the UNCRC and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

Section 29: Duty to favour education for children at mainstream maintained schools

Without sight of regulations mentioned in subsection (4) it is difficult to comment further. In relation to the draft Code, it offers no specific guidance or criteria to support local authorities to determine incompatibility under subsection (1)(b).

Section 30: Additional learning provision otherwise than in schools

I welcome provision made under this section and Chapter 22 of the draft Code does provide some detail with regard to stakeholder roles and responsibilities for children and young people with additional learning needs who receive education in settings other than at school. There are, however, a number of specific points that have not been addressed by the Bill or the Code:

Pupil Referral Units (PRUs)

Both the Bill and the Code omit specific reference to the role of Pupil Referral Management Committees in Wales. Whilst I recognise that the ultimate responsibility for children and young people receiving education at PRUs rest with local authorities, both documents recognise the important role that management committees can play in overseeing day-to-day additional learning provision delivered at PRUs. I would, therefore, like to see the Bill provide appropriate legislative alignment with the Education (Pupil Referral Units) (Management Committees) (Wales) Regulations 2014 and provide further detail in Section 25. In addition, the Code should specifically outline the role and responsibilities of PRU Management Committees with regard to this matter.

Children and young people with ALN receiving elective home education

It is disappointing that this Bill has not addressed the concerns that my office has raised about elective home education. It is my view that the Bill provides Welsh Government with a significant opportunity to build on progress and foster positive relationships between local authorities and the elective home education community in Wales. Whilst I recognise this is a sensitive and complex area, existing legislation contravenes provision set out in the UNCRC. I am concerned that a failure to bring legislation into line with the UNCRC will reinforce frustrations on this matter and hamper local authorities' efforts to secure the best outcomes for children and young people further still. I see both the Bill and the Code as key opportunities to:

- Redress the imbalance of parental choice over the children's rights;
- Recognise the voice of the child (Article 12) in proceedings and give provision to local authorities that supports them to further collaborate with the elective home education community in Wales; and,
- Give provision that supports local authorities to identify, respond and address safeguarding concerns in the most efficient and effective manner.

Section 53: Parents lacking capacity

It is concerning to me that Welsh Government has given no legislative protection to young people lacking capacity under this section of the Bill. I am, therefore, calling upon Welsh Government to provide redress in relation to this matter by the way of establishing similar arrangements for young people to those found in Section 80 of the Children and Families Act 2014.

QUESTION 4 – INCREASED COLLABORATION

DO YOU THAT THE BILL WOULD PROVIDE THE BASIS FOR AN IMPROVEMENT IN THE WAY THAT AGENCIES WORK TOGETHER TO DELIVER FOR CHILDREN AND YOUNG PEOPLE WITH ALN?

Neither agree or disagree x

Section 25: Duties of governing bodies to help local authorities' secure additional learning provision

I welcome provision made under this section, however, I would like to see greater detail and provision that relates to the role of PRU Management Committees in Wales. Please see my response to Section 30 in Question 3 for further detail.

Section 46: Additional learning needs co-ordinator

I welcome provision made under this section but without sight of draft regulations proposed under subsection (3) it is difficult to comment further. It should be noted, however, that in my response to Welsh Government's consultation on the Proposal for the Registration of School Learning Support Workers within the Education Workforce Council (EWC), I called upon Welsh Government to recognise the bespoke role that belong to Additional Learning Needs Coordinators and support workers. I would, therefore, welcome regulations to outline a minimum requirement of qualification and experience for additional learning needs practitioners and for the Minister (under the powers conferred upon him by Schedule 2 of the Education (Wales) Act 2014) to require their registration with the EWC under a separate category.

Section 47: Designated medical or clinical officer

The provision made within this section formalises existing local arrangements. Whilst this is something to welcomed, without the introduction of statutory duties upon LHBs and NHS Trusts under Section 14 of the Bill, I remain unconvinced that the implementation of this section would do much more to significantly develop existing levels of partnership and collaboration.

Section 49: Duties of certain public bodies to provide information and other help

I welcome provision made under this section although it is unclear under subsection (3) as to what extent noncompliance with the duty to provide

information and other help can be justified. I would want the Code and regulations proposed under subsection (5) to clearly outline criteria for justification and a prescribe appropriate timescales of reply in order to meet the additional learning needs of children and young people as quickly as possible.

QUESTION 5 – AVOIDING DISAGREEMENTS, EARLIER DISAGREEMENT RESOLUTION AND CLEAR AND CONSISTENT RIGHTS OF APPEAL

DO YOU AGREE THAT THE DRAFT BILL WOULD PROVIDE AN APPROPRIATE FRAMEWORK TO SUPPORT DISAGREEMENT AVOIDANCE AND RESOLUTION, AND THAT THE PROVISIONS RELATING TO APPEALS ARE PROPERLY FOUNDED?

Agree x

Section 37: Avoidance and resolution of disagreements

Where disagreement or dispute may arise with regard to a decision relating to a child or young person's additional learning needs, it is important that arrangements are put in place to ensure that the quickest and most appropriate resolution is identified at the local level. I therefore welcome the provisions set out within this section. Further to my comments on Section 3 in my response to Question 1, there are a couple of points within this section that require further clarification.

Under subsection (3), local authorities will be required to establish arrangements for independent support to be provided to children, young people and their families should there be any disagreement or dispute concerning a decision or content of an IDP. Given that Section 7 does not retain existing requirements to establish independent advice and information arrangements, it is difficult to see how subsection (3) will be met in practice. In addition, it is unclear to me at what point the provisions laid down by Section 38 and 39 will be required to intervene (if at all) in resolving disputes at the local level. In providing further clarification on this, Welsh Government should note that I welcome Independent Advocacy and Case Friend support to be established at the earliest possible opportunity of resolution.

I am concerned that including the phrase 'which it considers appropriate' in subsections (4) and (6) could result in a postcode lottery of how well local authorities publish, promote and raise awareness of their resolution arrangements and a person's right of appeal to Tribunal, particularly as some local authorities have chosen not to retain their local Youth Information websites that were previously facilitated by CLICOnline. In line with Article 13 of the UNCRC, therefore, I am calling upon Welsh Government to prescribe the minimum requirement for local information arrangements relating to children and young people with additional learning needs.

Section 38: Independent advocacy services

I wholly welcome the provisions set out in this section. From the RIA it is unclear how Welsh Government intends to meet the resource and governance implications to extending quality advocacy provision across the board. In extending the right to independent advocacy to children and young people with additional learning needs under this Bill, Welsh Government will need to ensure a consistent approach is established to avoid a disparity of rights and provision between the different groups of children and young people that the Bill intends to cater for.

Section 39: Case friends

I welcome the provisions made under this section. The Bill, however, is unclear on when and where the role of a case friend would be initiated and implemented in the IDP process. Greater clarification on this role is required.

Section 40: Appeals

It is my view that the Bill must impose statutory duties upon LHBs and NHS Trusts to meet the health-related additional learning needs of children and young people. Health bodies must, therefore, be included within the scope of appeal and be subject to the powers conferred upon the Education Tribunal for Wales under Section 42.

Section 42: Compliance with orders

My Office has consistently raised concerns about the lack of mechanisms available to the Education Tribunal for Wales to promote accountability and implement sanctions upon parties (including health bodies) who do not comply with orders by them. It is my view that this position undermines children and young people appellant rights and results in a failure to secure to their best interests at the highest levels. I am, therefore, calling upon Welsh Government to provide redress to this issue within any new iteration of the Bill.

Section 62: Appeals

I welcome provision made under this section, however, to avoidance confusion its title should refer specifically to 'Appeals for detained persons'

QUESTION 6 – SUPPORTING DOCUMENTS

PLEASE PROVIDE ANY FEEDBACK YOU THINK WOULD BE USEFUL IN RELATION TO THE SUPPORTING DOCUMENTS PUBLISHED ALONGSIDE THIS CONSULTATION, I.E. DRAFT EXPLANATORY MEMORANDUM (INCLUDING REGULATORY IMPACT ASSESSMENT), ALL IMPACT ASSESSMENTS AND THE DRAFT ALN CODE (WHICH WILL BE PUBLISHED IN THE AUTUMN)

Code of Practice

As mentioned in my response to Section 4, I welcome the Minister's intention to publish a new Code of Practice in order to support the implementation of duties laid down by this Bill. The Code must be robust and clear in setting out the mandatory requirements upon all relevant persons exercising functions of the Act (including health). The Bill has deferred much of its provision to regulation and this has made it difficult to identify crossover between the legislative framework and the Code. Whilst I appreciate that the Code has been presented in its earliest form, the lack of detail has resulted in much of the content being inconsistent and incoherent. Throughout the Code, there are various differences of style and interpretation which has led to conflicting and duplicated information being presented across each of the chapters and it fails to follow the experience of a child or young person with additional learning needs.

Children's Rights Impact Assessment

It has been useful to have sight of a Children's Rights Impact Assessment (CRIA) published alongside the Bill. It is clear that Welsh Government has given consideration to the UNCRC in developing its rationale and content although more could have been done to draw upon robust evidence emerging from the local authority IDP pilots and international documentation (e.g. UN General Comments relating to the Convention) to strengthen Welsh Government's determination of positive impact and promotion.

The CRIA has failed to note how the lack of statutory duties placed upon health bodies could have serious implications upon children and young people's rights relating health and how this may have negatives impact on their educational engagement, best interests and overall wellbeing. In addition, the CRIA has not successfully identified the potential imbalance of parental choice over children's rights, particularly in relation to those children and young people in receipt of elective home education. The content of this consultation response should be a valuable resource in updating the CRIA as the draft bill progresses.

Draft Explanatory Memorandum

The Draft Explanatory Memorandum does very little to expand and provide detail on what is meant within the provisions of the Bill and, in many cases, simply iterates the sections. This has made it difficult to discern how provisions are to be interpreted and what the intended course of implementation would be.

Regulatory Impact Assessment – Delegation of funds

I am concerned about the extent to which budgets would be delegated to governing bodies and what information would be used to determine the proportion of allocation. Within the RIA, it remains unclear to me as to how the proportion of delegated budgets would effectively balance the requirements of governing bodies and local authorities to meet the additional learning needs of children and young people in their area. The RIA also remains unclear about how the spending arrangements of governing bodies will be effectively

monitored to ensure that actual spend meets the additional learning needs of individual children and young people.

The RIA is unclear on how Welsh Government intends to meet the resource and governance implications to extending quality advocacy provision across the board. In extending the right to independent advocacy to children and young people with additional learning needs under this Bill, Welsh Government will need to ensure a consistent approach is established with the Social Services and Wellbeing (Wales) Act 2014 to avoid a disparity of rights and provision between the different groups of children and young people that the Bill intends to cater for.

QUESTION 7

WE HAVE ASKED A NUMBER OF SPECIFIC QUESTIONS. IF YOU HAVE ANY RELATED ISSUES WHICH WE HAVE NOT SPECIFICALLY ADDRESSED, PLEASE USE THIS SPACE TO REPORT THEM

Section 67: Regulations

It is my view that, as far as possible, all regulations should be subject to the super affirmative procedure as this will involve scrutiny by committee.

Section 68: Interpretations

Please see my response to Sections 3 and 6 for further detail.

Submitted by:

Professor Sally Holland

Children's Commissioner for Wales

18 December 2015

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Roger Thurlbeck on behalf of:

Organisation South East Wales Sensory and Communication Support Service.

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:
e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input checked="" type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that the definition of ALN is appropriate for the majority of children / young people however we do not agree that it covers those children / young people who do not have a learning difficulty but who do have support needs to access appropriate education e.g. children with sensory difficulties / communication with good cognitive abilities.

With reference to Additional Learning Provision covering 0-25. Whilst services like ours support children with a sensory impairment from 0, we currently do not often support pupils over 16 in FE settings. If required to do this it would create a huge strain on resources.

We also feel the Bill needs to have great clarity about educational support between the ages 0-3 and how this is to be funded. Our work in the 0-3 age range is vital in terms of early intervention and it would be good to have it included in the legislation.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Not entirely, we are unsure as to where the statutory elements of a statement are within an IDP?

We are disappointed that the focus still seems to be about provision and not the outcome children, families and professionals supporting them would like to attain.

Is there a legal obligation on other agencies to legally contribute to supporting targets in IDP, this appears to be unclear for Health and Social care.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We are concerned that there will be a far greater number of IDPs which will place additional pressure on schools and therefore there is danger of well executed Person Centre Practice becoming marginalised.

We cannot see the child/young person's voice at the heart of this draft Bill.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

If some agencies aren't going to be accountable to IDP provision as appears to be the case, how will that develop working relationships? The Bill creates ambiguity in terms of the roles and responsibilities of different agencies.

Again, we must repeat we can not see where the voice of the child and family is heard in the way they would like agencies to work together for their benefit.

There are huge implications for ALNCo's in having to co-ordinate so many agencies for an increasing number of IDPs. Will the Bill give guidance on release time for this crucial role?

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

This area of the Bill seems far more considered.

Very pleased to see advocacy support for parents, but who will fund this?

However, it remains an adversarial system.

How can parents appeal re social care and health needs within this system?

How will the Bill ensure high quality support and effective impact – who will be accountable for this, School? What will be the role of Estyn in monitoring impact?

How will children who use British Sign Language be provided with appropriate advocacy arrangements?

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We like easy read version of the draft Bill. A lot could be learnt from this presentation style.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

- 1. The role of educational psychologists is not mentioned anywhere in the draft code – the new legislation must impact on their role and we would like to understand how?**

- 2. The Bill has an emphasis on mainstream education provision for the majority. What about children in special needs resource bases?**

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable): The Special Educational Needs Tribunal for Wales

e-mail/telephone number: E-mail:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Further education sector	<input type="checkbox"/>
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	Education professionals	<input type="checkbox"/>
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	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input checked="" type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill makes a positive start in these areas but there are additional issues that need to be considered before it is possible to agree with these statements.

The Tribunal considers that additional consideration needs to be given to how the definitions of ALN and ALN provision can be reconciled with the aim of “maximising potential.”

The Bill presently focuses on the needs of school - aged children. Further work needs to be done to take more account of the needs of learners in the Early Years and FE sectors.

Please see attached the Tribunal’s full response to the consultation for further details.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Again the Bill makes a positive start in relation to the IDP. However, there are a number of areas that require considerable further thought in order to make the IDP and its preparation and maintenance and review effective for all learners with ALN.

The Tribunal is concerned that in trying to ensure that the new system is flexible and “scalable” and caters for and protects children and young people with less severe and complex needs the new IDP system as presently set out in the Bill potentially waters down the rights and protections currently afforded to children and learners with more severe and complex needs and their families and carers.

IDP format, content and processes need further clarification and consideration to ensure that a robust legal framework is created.

The Tribunal is also concerned about the weakness of the provisions that seek to improve collaboration and feels that this risks undermining the effectiveness of the new IDP system.

In order to be successful the new legal framework will need to be adequately resourced.

Please see attached the Tribunal’s full response to the consultation for further details.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Tribunal supports the concept of person centred planning and considers that the aim of the new system to actively engage learners and their families in decision - making is positive.

More detail however needs to be provided concerning how

increased learner and family involvement will be achieved before the Tribunal can agree with the statement that the Bill will help to ensure that the interests of children and young people with ALN will be protected.

In addition please see the response to Question 2.

Please see attached the Tribunal's full response to the consultation for further details.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Tribunal believes that the Bill is not sufficiently robust or innovative in its approach to ensuring that services effectively collaborate and engage in supporting the needs of learners with ALN. In the opinion of the Tribunal considerably more work needs to be done in this area if an improvement in collaboration is to be achieved.

At the present time the weakness in collaboration that has plagued the effectiveness of the current SEN and LDD assessment and support systems is likely to be imported into the new system and the Tribunal is concerned that this will undermine its overall effectiveness. This is highly regrettable since there are many elements within the proposals that are innovative and could deliver real improvement to the education of learners with ALN if effective collaboration between services can be secured.

Please see attached the Tribunal's full response to the consultation for further details.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Bill makes a positive start in these areas but there are additional issues that need to be considered before it is possible to agree with these statements.

More information is needed concerning the proposed framework to support disagreement avoidance and resolution.

The Tribunal continues to believe that effective collaboration can best be supported if rights of appeal are extended to cover provision by health and social care in addition to education services.

The Tribunal considers that for the appeal system to be effective there needs to be a mechanism incorporated into the Bill for enforcing tribunal orders.

The Tribunal also considers that a duty of post disagreement review should be incorporated into the Bill so that education settings, local authorities and other relevant public services can consider what if any lessons can be learned so as to avoid similar disputes arising in the future.

Please see attached the Tribunal's full response to the consultation for further details.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all

Impact Assessments and the draft ALN Code (which will be published in the autumn).

Please see attached the Tribunal's full response to the consultation in answer to this question.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Please see attached the Tribunal's full response to the consultation.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

**Consultation
response form** Denise Inger

SNAP Cymru

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff

CF10 3NQ

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e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	X <input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

1. ALN/ALP - we welcome the change in terminology as more descriptive

and more inclusive but do not think it will have any more than a temporary effect on reducing the stigma attached to any labelling of difference in children and young people. Successive terms have been utilised and over time they all acquire the same patina of stigma. This is inevitable. There is a concern amongst parents that the term doesn't reflect holistic needs

2. More information is needed to properly identify how the IDP process will work in early years and post 16

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

1. The IDP PCP approach will improve participation by children and young people
2. The robustness of the approach is detailed but families will require independent advice, guidance and support to interact with the approach and learn to trust and enhance it.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
--------------	-------------------------------------	-----------------	--------------------------	-----------------------------------	--------------------------

Supporting comments

1. The bill is aspirational and SNAP Cymru supports this
2. The UNCRC Article 12 is firmly rooted in this legislation and being taken forward

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
				x	

Supporting comments

1. The Bill aspires to improve the way agencies work together and promotes multi agency working, however the mechanisms by which this will happen are not clear except that the designated medical officer will have to consider the requests made.
2. We need full Ministerial sign up to the process to encompass, health, wellbeing, poverty and finance to enact this Bill through our educational systems. Together Ministers can make the changes which will provide for the future.
3. SNAP Cymru believes that there are long term gains to be made by addressing the needs of the full cohort of children and young people with ALN

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
				x	

Supporting comments

1. The draft Bill would provide an appropriate framework to support disagreement avoidance and resolution providing that it is equitable across Wales and properly funded
2. Given that the support available to young people and families is independent and knowledgeable on education legislation the provisions relating to appeals are properly founded
3. The capacity of post 16 year olds and their ability to appeal may need to be further defined.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Please see Supporting Documents:

1. SNAP Cymru response to the explanatory memorandum
2. SNAP Cymru Parent consultation response

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

To whom it may concern,,,

I remember years ago attending an event called "Statementing or Something Better".

I am unconvinced that these plans will provide the something better and the reasons I am unconvinced, briefly are:

1. Currently statemented children make up about 4 percent of the school population, authorities and health?social services struggle at times to deal with all these statements in a timely manner.

Getting everyone to attend reviews, keep things up to date etc. doesn't always happen now. How will the expansion of this to the 18-20 percent of the school population that have ALN be managed? Where will the funding come from to deal with all this extra paperwork? Where will staff time come from? How will pupils be protected from losing out if the staff are busy attending to all these things instead of in the classrooms helping children learn?

2. Health have clear lines of demarcation between children's and adult services, as do social care, how do you expect such a big organisation as the NHS to be able to

conform to these new expectations quickly enough? Often a service that exists for children can disappear at eighteen, so how will that be managed.

A child turns into an adult, they haven't changed, their needs are the same, they have simply gotten older, yet they cannot access a service anymore.

3. How will parental views be given weight when a child reaches the magical age of eighteen? Suddenly this child who is chronologically an adult but may cognitively still be a child will be faced with making huge decisions about their future. These decisions will impact the whole family. Where will the mechanisms be that allow for meaningful impact from the whole team around that person, including those that have been, until now, an integral part of the process?

4. Many parents have had trouble getting children to the place where their education is taking place as transport has been inappropriate to the needs of that child/Young person. How will this new bill help to resolve transport issues? if it does not, that will be a missed opportunity to reduce the number of children with ALN that school refusal becomes an issue for.

5. The emphasis is on providing, where possible, education within mainstream education. How will this bill support children educated at home, or EOTAS?

6. Finally this bill aims to make the process less confrontational. Well ALN costs money, if there is no extra money to provide services and LSA's and Teachers, the conflict will remain. How many extra staff will be employed to deal with challenges at the tribunal as services are cut and schools make more teachers redundant and children go without? Or FE do the same and Young people are left without support?

I have much more that I would like to say, but I have run out of time. Quite typical for a parent that has caring responsibilities, I do not think enough is done to ensure parental input is at a maximum possible.

The principles of this bill are admirable, but we can't get the system to work for the 4 percent.

Lisa Rapado,

Branch Officer, NAS Ystradgynlais and District
Founding Member HOOSUP

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Tracey Pead
Head of Pupil Support
ALN Services

Organisation (if applicable): Torfaen Education Services

TCBC

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
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or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

ALN

Wide definition- not specific enough; definition of significant?
 Clarity needed around BESD pupils- no criteria
 No graduated response, either ALN or not
 Used to have stages of assessment- so pupils could make progress by moving down the stages of assessment
 It is going to be extremely difficult to alter ALN to no longer ALN, so over identification will be an issue!
 Used to have categories of need- which are useful
 Possibility that 20% of pupils being identified as ALN- not mirroring current statementing level
 EPS not statutory role- not mentioned

0-25

Principle is good
 Logistically massive undertaking; workforce capacity issues of training to support young people to 25; pre-school and +16 training capacity
 Storage of records will be an issue
 We may young people have returning to education after long gaps
 Long term planning will be easier
 0-3 provision? Should we be providing? Costs?
 Post 16 provisions? Costs?
 Skill sets in private nurseries, how will they have dedicated ALNcos
 Budgets have been slashed for colleges so provision for ALN may be limited

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Legal framework re: IDPs

We have a legal framework at present to implement and review IEPs- this system is less structured, accountable and more vague

Lack of definition and clarity will lead to more legal challenge

Education responsible – will be taken to Tribunal- pathway easier for legal challenge

No statutory requirement for Health or Social Care to take, no clear challenge role- no recourse to tribunal being placed upon Health or Social Care

Need graduated response, no clear assessment process- missing here

Bill/Code state Education responsibility

How can IDP be a working document if held by LA? Work force capacity issues if IDPs are to be reviewed on a regular and meaningful basis

Appropriate resourcing of PCP required- consistency of approach

No challenge to schools within the Bill as responsibility will just be passed by schools and parents to LA

Planning together is vital but there are still no statutory responsibilities placed on other key partners, focuses on education

Medical officer mentioned- no additional money identified- still not a statutory role

Agree with increased participation of young people, parents

Still heavily weighted towards middle-class parents and pupils, doesn't cover pupils, parents with low cognitive ability- heavily skewed towards advantage

What of parents, pupils trying to negotiate this Bill in another language?

IDPs will be statutory so levels of access and engagement will have to be closely monitored as there would potentially be legal challenges via the Equalities Act 2000

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Interests of pupils promoted?

No- too vague

Narrow interpretation of lack of attainment equating to ALN does not follow, lots of pupils will be excluded and not have their needs met

Lack of assurance that Health and therapies will be part of process

Promoting PCP and interests of children- need more clarity in devising, reviewing IDPs

Role of ALNco important- training- who will provide training, ensure consistency of levels and standards

May encourage development of cluster ALNcos

How will non-teaching time be funded?

Explanation of "senior teacher"- again needs to be explicit

Recognition of expertise required and time demands of role

Not enough protection for young people- limited resource directed towards well-resourced parents who can afford private

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Collaborative working?

There is a basis theoretically but unclear how IDPs and health plans and PEPs will link together

No statutory requirement on Health to review IDPs

10 week response time unrealistic, communication between services not easy due to different IT systems, and data security issues

No recourse of parents or pupils to challenge other agencies unlike Education through Tribunal

Collaboration not firmly planned, again vague

Written reports not feasible must attend meetings but resources

Right of appeal should only allowable on grounds of provision

IDPs originated in schools not feasible to expect other professionals to attend all these meetings

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Advocacy and Resolution

Not enough information on advocacy explored in Bill or Code
Assume resources are out there to provide this service
Concern of lack of support for parents
Over-burdening young children with decision making could be detrimental
Burden falls solely on Education
Lack of clarity will vary across schools and LAs
Mediation- high risk of increased tribunal cases
Mandatory mediation should be encased in Bill
Time-scales need to be clear and unequivocal
LAs have no access to Health support
IDPs need to be written during PCP process- acceptable model
Nothing in Bill to help provision mapping- no more resources available
20% of pupils could be statutory, provision will be tied in for larger numbers of pupils
Pupils would have recourse to legally challenge many years later

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Impact assessments- too non-specific, paying lip service

Use **must** and **should** consult not **may**

Belonging regulations need to be reviewed

How will out of county placements be managed?

Section 3- redefines LAC- you refer to children and young people who are “formally LAC” but give no definition- what do you mean- adopted- when- for how long, how long must you have been in care to qualify as LAC?

Detained persons- new definition-YOS statutory requirement to provide IDPs- to manage and maintain all will be a work-force issue, need to increase capacity, travel, expertise etc.

No link to Health and Social Care plan- PEPS and IDPs? No link up?

Lack of statutory role for EPS will mean that Welsh pupils will be disadvantaged in comparison to other countries this will lead to increased legal challenge!

More clarity around the role of the ALNcos- there needs to be a professional accredited training course, schools will need to have succession planning and ALNcos should be trained before they undertake the role. There will be massive cost implications here at a time of reduced budgets as schools will have to fund, non-contact time, cpd and time out of the classroom and payment on higher scales

Home educators have the right to ask LAs to write, review and monitor IDPs and provide appropriate provision- same rights to tribunal? Significant implications for resource and capacity of LAs

Why have two major separate pieces of legislation been put together if the theory is to join up services for the benefit of families and pupils? These should be Bills and a Code that relate to the other Health and Social Care Bill, another example of the silo mentality and way of working that holds Wales back and is far less effective and cost effective

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

So non-specific specialist lawyers will make a fortune, very vague terminology throughout!

Professionals feel very despondent that we have not been listened to again- this legislation has been years in the making

Capacity of LAs to manage the Code/Bill in times when budgets are tight and posts are being cut

Skills shortages

Increase in Tribunals

Increase in conflicts, LA is stuck in middle between parents and schools

Need a very clear definition of ALN otherwise conflicts will increase and pupils needs will not be made

No additional funding has been identified to enable any effective change to be made.

English LAs received considerable additional funding

Clarity between English and Welsh plans- cross-border issues will be on-going

Why are there two separate major pieces of legislation being put together if the theory is to join up services for the benefit of families and pupils?

Increased anxiety for professionals and parents and children

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Ceri Jones

Organisation (if applicable): Rhondda Cynon Taff County Borough Council

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
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CF10 3NQ

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	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	x
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>

	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

We agree with the definitions of ALN and ALP as set out in the draft bill in general. However, clarification is required with regards to the term 'significantly greater difficulty'. ALP needs to be defined more clearly as it may be interpreted differently across LA's and agencies

These terms are open to interpretation and may cause conflict where parents / school / LA have a differing view as to their meaning. There could also be variations in interpretation across different Local Authorities. These differences in opinion are likely to lead to dissatisfaction, challenges to individual LAs and increased tribunal appeals.

The notion of 0-25 in theory should assist with transitional planning. However, there are concerns with regards to availability of provision and necessary training within FEIs to meet needs as set out in IDPs. We have concerns in relation to the following:

- More clarity is necessary in relation to meeting the needs of 0-3 age children who may not be in an educational setting e.g. who will maintain the IDPs?
- There will be a percentage of pupils with ALN (e.g. dyslexic) who may wish to access university/higher education institutions that are not covered by the bill
- Young Persons with ALN may leave education post 16 and then return later
- Capacity issues of the LA and FEI's to meet the needs of children and young persons 0-25
- Expanding the age range will have undoubted implications for

resources within a context of diminishing budgets within LA's

- There will be a need to consider workforce development as there will be a greater shortfall in the number of specialist ALN staff able to deliver ALP, particularly when recruitment of specialist staff is an issue (particularly Welsh medium) and LAs have been reducing central specialist services.
- This legalisation does not extend to other services, e.g. Social Services and Health Services, which would enable the proposed bill to be truly effective.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The emphasis upon increased participation of children and young people is positive. However we disagree that the framework is robust. National thresholds/moderation of ALN is needed to create consistency across all LA's. It is not clear at what stage school or LA become responsible for IDPs. Without common guidance criteria and thresholds of need the new system of IDP's is likely to create more variation in practice across LA's, which is likely to result in an increase in appeals by parents.

There are huge implications for work load for ALNCOs and LAs in having to coordinate advices, write, and monitor and review IDP documentation for upwards of 20% of the population. More clarification is needed in relation to when a parent can seek a review and the practicality /capacity of schools/LA's to comply with their requests

The Bill stresses the importance of a multi agency approach however there is no clear accountability for other agencies in relation to statutory responsibilities for contributing to IDP/ALP, e.g. Health only has to agree.

We have concerns in relation to the following:

- Impact on the role of ALNCO in relation to the proposed professional development

- Terminology such as ‘unnecessary’ and ‘as fully as possible’ detailed in the Bill are ambiguous and open to interpretation
- Whilst recognising the valuable principle of a person centred approach to developing IDPs there are concerns in relation to a young person who may refuse to have IDP/ALP in contrary to advice of both parents and professionals.
- Without proper training for ALNCO’s and clear guidance, the quality of IDPs will be variable within and across LAs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The increased age range 0-25 should theoretically offer greater protection and enhanced opportunities for appropriate provision to be made via effective LAs transition processes. There is a clear issue of capacity/resources for LAs in a number of areas, for example LAs having to fund health therapy that Health do not agree to provide, enhanced costs from an increasing number of tribunals, parental requests for LAs to review school based decisions.

It is unclear how a young person's needs may be met if he/she has not consented to having an IDP/ALP

The Bill cannot ensure a child's 'interests' would be protected. This term is vague. It does not clarify how a child's needs would be met if there is parental apathy, where children / young people refuse to consent.

Educational Psychologists currently play a key role in the holistic assessment of a child's strengths, difficulties and needs and in the coordination of processes to meet complex needs. The bill does not ensure that this role will be identified and LAs may therefore choose not to ensure funding of EPs to carry out such work.

There is concern in relation to the process detailed for the preparation maintenance and review of IDP's. For example unreasonable timescales, the requirement to issue an IDP without essential advice/reports resulting in the provision of poor quality, inappropriate and ineffective IDP/ALP.

Additional funding is needed in order to ensure that the Bill is appropriately implemented on an on-going basis and not as an initial implementation payment.

The term “promoted” is open to interpretation, does it relate to outcomes, awareness raising, etc.

The enhanced emphasis upon advocacy is felt to be positive.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There is a need to improve the collaboration between agencies but there is an obvious lack of statutory provision/accountability for agencies other than education with regards to providing and protecting specialist provision. For example, Health may or may not agree to the provision of health therapies depending on their own measures and priorities and therefore the responsibilities to provide ALP will continue to lie ultimately with the LA (i.e. non-health professionals).

It is unclear how the different service delivery models within different agencies (e.g. short term blocks of intervention by Health Therapist) will impact on the reviewing process for IDP's

The introduction of the statutory DMO/DCO in Health is positive however again it is unclear how one professional will have the capacity to undertake the co-ordination of the Health Boards functions when considering the high number of children and young people with ALN within each Local Authority. There is very little detail in relation to the statutory responsibility of Adult and Children's Services.

The introduction of PCP is positive in relation to working collaboratively to understand and meet the needs of children with ALN. However, there are concerns in relation to the capacity of agencies/services to attend and write reports for a much higher number of statutory reviews.

Unless the Bill can ensure the accountability of all agencies on an equal footing, with education, the current situation is unlikely to improve.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The framework proposed does little to change or improve upon the current situation. A lack of clarity in relation to thresholds of need/graduated response will result in conflict between schools and the LA in relation to the responsibility of maintaining IDPs and this, in turn, will result in increasing numbers of complaints and appeals. The Bill appears to provide more opportunity for disagreements to arise at a much lower level. This will be costly and time-consuming for LAs and will impact upon the LAs capacity to work effectively with schools to provide effective ALP.

There needs to be a strong legal framework to ensure mediation between LA and parents is mandatory prior to any appeals and this is not prevented by either party or their representatives.

SENTW can currently direct only Education/LAs to provide additional, specialist provision, even when an appeal has been made on the grounds of insufficient health provision (e.g. speech therapy). The new Education Tribunal Wales process outlined in the draft Bill does nothing to change this position which is felt to unfairly disadvantage and penalise the LA.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

- Impact assessment was useful
- The Bill is very repetitive and lacks clarity

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

There is no reference in the Bill to the right for parents/children and young people to access specialist provision through the medium of Welsh, nor to the challenges for workforce planning/development to ensure in the availability of Welsh speaking specialist staff in all areas of ALN in each LA/on a regional basis.

The proposals raise a number of questions which need to be addressed:

- Work force planning – there is currently a national shortages of teachers for HI/VI, how will this be addressed
- The remit of LA's will increase dramatically however due to budgetary constraints LA ALN central services have been and continue to be subject to cuts. There are concerns in relation to capacity to implement the new Bill /Code.
- More clarity is needed in relation to provision for 0-3 aged pupils.
- The Bill/Code needs to specify a clear graduated response to meeting the needs of children and young people with ALN, including nationwide thresholds.
- Not sure how the draft bill will link with the Health Social Care and Wellbeing Bill in relation to consistence of approach and priorities.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Michelle Jones

Organisation (if applicable): The Parent Network

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
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	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input checked="" type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The definition does not appropriately reflect:

1. Clarity in the definition of what is meant by disability is required
2. Pre school 0 – 3 and post 16 – 25 these areas also need clearer definition in relation to the bill
3. What will be the role of schools such as Trinity Fields?

It was also felt by parents that children could be at a disadvantage with the ALN

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Parents agreed that a robust framework is required however it was felt that this doesn't appear to be robust enough.

There is not enough clarity around the practical implementation of the bill, who will be responsible, who will deliver and pay for training, who will support schools to make the right decisions, this needs explaining in more detail

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

How will this bill ensure that children and young people who have aspirations for their futures will have any provision for them post 16 as far as learning and employment?

How will raised aspirations be measured and how will outcomes be achieved and measured

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The parents felt that this needs to be defined, who will support the involvement of agencies will this be managed through a system similar to TAF? With a single front door and agencies being brought together to support the individual with ALN?

Who will decide who will do what?

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It was felt that a change of culture needs to take place, but the process is not clearly defined, and possibly will cause more disagreement rather than less as it stands.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

It was felt that there are big gaps in the supporting documents which don't help the process of consulting on this bill. It is obvious that more work is needed to refine definitions, to put the 0-3's and 16-25's into the bill in a way that it will have a positive impact on their lives.

Schools will struggle to provide the support expected of them along with making appropriate decisions, on-going training and support will be required to ensure that the bill is making the difference that it sets out to make. Time scales are also an issue and something as important to children, young people and families also needs to be carefully considered and thought out.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Resources (there seems to be no resources available)
Training for governors, teachers, senco, head teacher is not clear and will need to be put in place, the workload of these individuals also needs to be considered.
Parents were particularly concerned that schools (that have low capacity) will refuse to take on their children as they may see children with ALN affecting their targets and using up resources which may be used elsewhere in the school.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain



anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Cwm Taf Therapies and RCT Education Partnership Forum

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
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	Preschool organisations	<input type="checkbox"/>
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	Teaching Unions	<input type="checkbox"/>
	Local government	x
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	x
	Other public sector organisations	<input type="checkbox"/>
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	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

- We agree with Part 1 of the question
- We disagree with Part 2 of the question
- We agree in principal terms of ALN and ALP but have significant concerns in relation to how levels of need will be consistently interpreted and determined across all agencies (including parents) as this could lead to conflict
- 0-3 there is a lack of clarity in relation to role and responsibilities in ensuring appropriate provision
- The extension to 25 will require significant changes in the resourcing and capacity of services to support young people. There is no mention of ALP at university/HEI – could this pose issues in relation to equality?
- There will be significant training needed to support and address changes

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- In principle this group would totally support the child / young person's views being at the centre of the PCP / IDP.
- However the legal framework does not provide sufficient clarity around the roles and responsibilities of individual agencies or their duty of care. For example the current bill does not address issues that could arise where the health board priorities are not aligned to the LA / child / young persons priorities. There is no statutory obligation upon the Health Board to provide ALP in an IDP and therefore it cannot be challenged. Any complaints would be need to be addressed via Health Board complaints procedure as the new Education Tribunal Wales process does nothing to strengthen the current situation of SENTW whereby only Education can be directed to provide ALP.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We feel that the Bill is likely to promote the interests of children / young people due to the PCP approach; however it is unclear how their interests will be protected and is not clear how this will deliver better outcomes for children and young people.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Without a statutory obligation to provide ALP the Health Board can decline to

agree to health provisions in an IDP where this is not one of the Health Boards priorities. This will continue to put a strain upon LA resources by continuing to purchase private therapy etc that the Health Board does not deem to be their responsibility. As a result there is a risk that children's needs will be compartmentalised.

The responsibilities of Social Services in relation to their contribution to ALP are not clear. For example where a child is placed in a residential placement. This currently works well, with all agencies signing up to tripartite funding in RCT. We are concerned that the Bill could jeopardise this.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The new bill does not improve upon the current / existing legislation in relation to current dispute resolutions. It is likely that there will be increased opportunities for parents/carers to challenge the LA on a much broader level which will result in an increased volume of disagreements / disputes.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

- Impact assessment was useful.
- Bill and code very repetitive and lacks clarity.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

- The right of Health professionals to inform the LA of concerns regarding in relation to a child's ALN – Health professionals will not be willing to put their professional membership at risk if parents do not consent. It is felt that they will only share information where there are safeguarding concerns
- Further clarification is needed as regards naming schools for children and young people with ALN. For example does the LA have to comply with the parents wishes if this conflicts advice of health and education professionals
- There is lack of clarity in bill regarding transport arrangements for children / young persons in specialist provisions
- Again there is lack of clarity in relation to the role of Adult Services for post 18 provision as Children and Adult Services have different frameworks but these have not been considered. In particular, significant implications for Adult Health Services in FEI
- It would be naïve to think this can be implemented cost neutral

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	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Lack of capacity in schools to deliver the proposed bill and lack of expertise, could lead to more conflict.

Nothing in legislation if parents refuse to consent to child having IDP even if need is evident.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Huge financial implication in the current climate. Expectation is that ALNCo becomes part of SLT, no teaching, and even then not enough time to complete reviews, so more staff would be needed.

Clarification of specific terms such as 'universal / complex needs / regular' is needed.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

No, it is extremely difficult to get representatives for NHS / Health to attend any meetings for pupils. The proposed Bill, I believe, would put increased demand on health professionals to attend meetings or write confidential reports. We cannot control health professionals and cannot make health provision happen.

ALNco's will need to be highly skilled in knowing which outside agencies to access, how and when and in identifying need.

What training will be available for the many and varied professionals involved with pupils?

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There is potential for an increase in conflict; the quality of the IDP would depend on the quality of the assessments carried out by professionals.

Clarity on the role of the Local Authority and the role of the school is needed with regards to the division of responsibility for IDP's.

It appears that provision is responsibility of school not LA. Whilst LA can be taken to tribunal regarding decision as to whether child has a need, school will be taken to court if provision is not satisfactory.

Parent's views are not considered post 16.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

My main concerns are:

The lack of clarity on what creating and maintaining an IDP involves.

How would an IDP differ at the different levels; school action, school action plus and statement of SEN?

Will all pupils on the ALN / SEN register require an IDP? What about LAC pupils?

Will all IDP's require a meeting for all professionals involved with the pupil and parents/ carers and an action plan?

Will reviews need to take place once or twice a year?

Currently we have annual review meetings for our 21 pupils with a statement of SEN. These take between 3-4 hours per review including preparing the paperwork, holding the review and submitting the paperwork. With the new proposals, it would seem that I/ ALNco would have to complete 372 reviews for all pupils on our SEN register. This equates to between 1116 and 1488 hours of work. There are approximately 1170 hours during the academic year available to meet with pupils and parents. In a school like ours, with 39% of pupils on the SEN register, there would not be enough hours in the academic year to carry out all IPD reviews once, let alone twice. The ALNco would have to devote all of his / her time to IDP reviews. The proposed system is unmanageable.

There could be great inconsistency in IDP's across Wales.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: **REMAIN ANONYMOUS -YES**

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Gavin Metheringham

Organisation (if applicable): Blaenau Gwent Education Department

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input checked="" type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Definition of ALN

While the purpose of this ‘rebranding’ is clear, it is not helpful that the proposed new term is already in use and has a different definition (referring to vulnerable groups in addition to that group of pupils who have SEN). The term ALN has been embedded in documentation and work practice and there is existing clarity on the difference between SEN and ALN. To use the term ALN to refer to SEN will create confusion. In addition, using the term ALN for SEN and having no other term for vulnerable groups will lose a focus on the vulnerable groups that currently come under the definition of ALN.

Regarding the term ‘ALP’, this is surely an acronym when no acronym is needed. The term ‘provision’ is currently used so why create another term?

Increasing the age range

While this proposal is supported there are a number of practicalities that will need to be considered.

For the 0-3 age range, assuming that IDPs would be adopted within this age group, who would be responsible for writing it when children are not in educational settings? It will need a clear legislative lead. In addition, would parents have the same right of appeal here and if a parent challenged the provision, who would it be referred to? Will it be possible for a parent to take health/social services to tribunal?

For the 19-25 age range, this proposal is challenging. While it is clear that LA officers would have more specialist knowledge than WG officers in this area of provision, it would not be a simple case of just transferring the responsibility and funding as it currently stands. The level of expectation would increase because the right to appeal would also be included which it is currently not. Local provision to meet the needs of all young people in this age group may not be available and yet parents would have a right to it under the proposed

Bill. This would lead to a significant increase in challenge by parents and young people with ALN.

This proposal would also have implications in terms of a requirement for staffing, resources, provision and funding at a time when all LAs are facing significantly reducing budgets to manage provision for the current age range.

In addition, there would be a need for social services and health services as well as other services and groups (Police, CAMHS etc.) to be involved through legislation to the same extent as education services for this proposal to be effective. The proposed Bill allows these other services a choice which means there is no change in the level of their involvement. Legislating for changes within education services only is not going to be effective.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It is positive that within the proposal there is increased participation of children and young people. However, unless there is robust criteria and a graduated response the framework is meaningless. Without common guidance criteria there is going to be wide variation in practice across Wales and without ALNCo training the quality of IDPs are likely to be as poor as the current IEPs.

The definition of ALN is open to interpretation - what does 'significant' mean in the context of 'significantly greater difficulty in learning'?

The role and responsibilities of health and social services are ambiguous-they are not legally accountable. Indeed, the consultation document for children and young people says that the new ALN system will '*focus on education and learning needs not other needs like health needs*'. This is an incredible statement when the most contentious issues for schools and LAs involve health provision. How is the IDP a unified plan if this is the case?

The description of the ALNCo in the Draft Bill does not seem to build on the work done in pilot LAs; this needs to be reconsidered and included.

The capacity of LAs to manage the 16-25 year age range has not been taken into consideration.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The best interests of children and young people cannot be protected without a framework which sets out clear responsibilities and accountabilities. The Bill and Code of Practice needs to include these.

Once again there is no legislative assurance that health needs will be met by health services and this has great resource implications for LAs if this is not assured.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Increased collaboration is required but the proposed Bill does not go far enough. It remains an option for health rather than a legal requirement as it is for education. It may provide the framework for collaboration but it relies on the goodwill of individuals within other services. Health professionals are answerable to different measures and these will continue to take priority for them.

PCP will help by providing a pupil focused approach and IDPs will be an improvement compared to current annual review meetings. However, these meetings will only be an improvement if involved professionals attend which is likely to be limited as a result of the lack of legal requirement.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The proposal provides a framework very similar to the current framework but the proposed form does not provide clarity regarding whose responsibility an IDP might be. This will produce inconsistency across schools and LAs and will make right of appeal a complex issue.

As schools are part of the LA, rather than set school and LA on potentially opposite sides it would be more valuable if IDPs were jointing owned by school and LA with the LA in a position to support schools in the implementation of the IDP.

Mediation should be mandatory and those parents who do not engage in mediation should not be given right to move forward with an appeal to Tribunal.

Under the proposed Bill, Tribunal would not be able to direct health provision. Given that most tribunals and disputes involve some health provision this is not workable. In addition, LAs currently have no support from Health to respond to private reports agreed by Tribunal.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

-

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

There does not seem to be any realistic analysis of how much these reforms will cost. Transitional costs need to be quantified and funded.

Increase in tribunals and cost implications (time and money) not quantified.

There needs to be consideration of how the Welsh ALN processes will work with EHC plans when a child or young person moves into a Welsh LA.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response from:-

Catherine M. Lewis Chair of Third Sector Additional Needs Alliance (TSANA)

Telephone

E mail

TSANA agrees to this evidence being made available publically

1. The Third Sector Additional Needs Alliance (TSANA) is a group of voluntary organisations which seek to protect and promote the rights of children with additional needs in Wales. We aim to work with the Welsh Government, Assembly members and other organisations to influence legislation, policy and practice in Wales to ensure that children with additional needs can access the support they need to reach their full potential.

The following organisations are members of the Alliance:

Afasic Cymru,

Barnardo's Cymru

Contact a Family

Children in Wales

The Down's Syndrome Association

Learning Disability Wales

Mencap Cymru

Mudiad Meithrin

National Autistic Society (NAS) Cymru

National Deaf Children's Society (NDCS) Cymru

RNIB Cymru

Sense Cymru

SNAP Cymru

2. TSANA is submitting this consultation response as part of its ongoing engagement with Welsh Government, around the Additional Learning Needs reform, which included participation in The Third Sector Additional Needs Alliance (TSANA) / Welsh Government Task and Finish Group on Additional Learning Needs Reform.

3. The purpose of the Task and Finish Group was to bring together TSANA representatives with Welsh Government officials to act as a critical friend by providing ideas, proposals and suggestions to support the development of the proposed Bill on Additional Learning Needs and, in particular, the accompanying draft Code of Practice on ALN.

4. Six meetings were held between January and June 2015, each with a particular area of focus:

1. Involving children, young people and families in developing the ALN Bill and Code of Practice
 2. Principles
 3. Roles and responsibilities
 4. Individual Development Plans and the planning process
 5. Advice, disagreement resolution and Tribunal appeals
 6. Key recommendations
5. Welsh Government officials shared a briefing paper ahead of each meeting. TSANA prepared a detailed paper responding to this brief, which was discussed at each meeting.
6. TSANA welcomes reference to the group in the Welsh Government's Equality Impact Assessment on the draft Bill which highlights that the groups "meetings have been used to inform policy and provide further clarity and details on our proposals."
7. However we feel that many of the key points and recommendations that were raised in our Papers and in the Task and Finish Group meetings have not been addressed by Welsh Government. For this reason, TSANA has chosen to re-submit our collection of Task and Finish Group papers by way of response to the consultation



Draft Additional Learning Needs And Education Tribunal (Wales) Bill

A Response from Neath Port Talbot CVS

December 2015

Neath Port Talbot Council for Voluntary Service (CVS)

Neath Port Talbot CVS is the County Voluntary Council and a Charitable Company set up to promote, support and develop the Third Sector in Neath Port Talbot. It has over 500 member organisations and is in touch with over 1,000 Third Sector organisations operating in Neath Port Talbot.

The organisation has strong partnership links locally and regionally and works in a number of strategic areas, such as Community Safety, Health, Regeneration, Adult Community Learning and Children & Young People.

As part of this work, Neath Port Talbot CVS facilitates a range of forums bringing together organisations and groups in the field of regeneration, children and young people, health (including mental health), social care and wellbeing as well as the Regional Health, Social Care and Wellbeing Network.

Neath Port Talbot CVS has made this consultation document available on its website and through its general information services.

Neath Port Talbot CVS welcomes the opportunity to respond to this consultation.

General Response:

Neath Port Talbot CVS welcomes the intention of the draft Bill to introduce a unified legislative framework to support children and young people aged 0-25 years and address the recognised disadvantage and deficiencies of the current systems.

It is also important that the needs of those children and young people without a diagnosis and their parents and carers are recognised.

All the objectives within the draft Bill seek to improve the current situation and are aspirational in purpose. Whilst this makes the content of the document difficult to disagree with, there is considerable concern that it lacks real detail, making it difficult to make an informed response to the consultation.

Although the age range is for those aged 0-25 years there is little reference to those outside of school age (3-16 year olds). Many organisations in the third sector are Early Years child care providers with expertise in direct delivery, along with providing development support to day nurseries and playgroups. There is little recognition of the role of the sector generally and specifically in relation to childcare and play. Many providers have children up to 4 years old as local schools will not accept them but do not receive any funding for this. There are concerns that the draft Bill does not set out the support that children and families should expect to meet their needs.

The document calls for closer working between local authorities and health boards but should this be extended to a multi-agency approach. If so this should include childcare and play organisations for children up to 12 years of age in anticipation of the changes to registration requirements in April 2016.

The desire to achieve a more holistic approach and placing the child or young person at the centre is welcomed, along with the move to one Individual Development Plan (IDP). Effective person centred planning can take time and requires those that undertake it to be appropriately trained. Given the increase in numbers of children and young people that will fall under the new legislation, there is considerable concern that there is a lack of adequate resources to implement this properly. Budgetary constraints are impacting across a range of services and it is likely that there will be capacity issues in meeting the requirements. Consistency in thresholds across local authorities is necessary for its success and there is anxiety that thresholds for access to an IDP will vary across boundaries and be driven by budgets rather than need.

Reducing conflict is important in achieving the best outcomes for children and young people. It is important that this is addressed at the earliest opportunity and could perhaps be considered prior to the conflict resolution and appeals stage. It is felt that the role of the Case Friend and who might undertake this role needs to be given more consideration as it has potential to increase rather than reduce difficulties.

Having support and advice that is independent is important particularly if parent/ carers want to challenge decisions. There is a role for third sector organisations in providing this, avoiding potential conflicts of interest if this should only be available through local authorities.

It is also important that there is parity between the definitions in this legislation with that of the Social Services and Wellbeing (Wales) Act.

As previously stated the draft Bill is extremely ambitious and well intentioned. There is a need for considerable more detail to be able to determine how workable it is. Without doubt there will be issues of resources and capacity that will impact on its implementation.

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Kevin Tansley

Organisation (if applicable): Tŷ Gwyn School

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input checked="" type="checkbox"/> <input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The definitions are very clear and are not too dissimilar to those relating to SEN within the current legislative framework.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In discussions with colleagues at various events there are concerns relating to the number of pupils that will require an IDP. I believe there is confusion about this. However, the Minister's recent statement was quite explicit.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I agree but I am still very concerned that health provision will not be satisfactory. I believe that we need to explore different ways of working. It would be helpful if there was a nationally agreed statement that therapists will design and write individual programmes for pupils but these programmes will be delivered by a combination of therapists, teachers and teaching assistants. Also, I think it would be helpful if there was a glossary explaining the various roles undertaken by health professionals. I believe there is significant confusion around the role of speech and language therapists. With regards to attendance at Annual Review/IDP meetings, I think there will be a genuine capacity issue for schools and health professionals. The whole IDP process is a really positive development. However, it is time consuming and we will need to be selective in how we involve therapists in lengthy meetings.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Rev Dr Philip Manghan

Organisation (if applicable): Catholic Education Service
The Catholic Education Service is the educational agency of the Catholic Bishops' Conference of England and Wales

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

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Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Catholic Education Service welcomes the definitions of Additional Learning Needs (ALN) and Additional Learning Provision (ALP) as set out in the draft Bill. We also welcome the extension of the age range to 25 from 19 and believe the draft Bill captures the age range appropriately.

The current confusion surrounding the terms Special Educational Needs (SEN) and Additional Learning Needs (ALN) should now be clarified with the new definitions.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We welcome the introduction of Individual Development Plans (IDPs), which should simplify the current system. However, we are concerned about the potential workload increase for schools. If all children who currently have a SEN or ALN are included in the identification, alongside any other child whose ‘special educational need’ may be at a relatively low level, for an IDP, potentially there is greatly increased bureaucracy for the school, LA officers and others. If this cannot be avoided, funding would have to be found to service the increased workload.

We are also mindful that the current proposals provide a one-stage identification platform, unlike the current ‘ladder’ of ‘school action’, ‘school action plus’ and

'statement'. The final proposals would need to make very clear at what point an Individual Development Plan should be initiated in order to alleviate some of the potential bureaucratic pressures. If a much wider group of children are to benefit from Individual Development Plans there needs to be a recognition that the implementation will need increased resourcing.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The draft Bill clearly aims to ensure that the interests of children and young people with additional learning needs are being met. The Catholic Education Service welcomes the emphasis on high aspirations and improved outcomes, not least because it concurs with the fundamental principle of Catholic education that every child is a child of God.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

We agree that agencies working together will provide the best service for children, young people and their families and there are many excellent examples of inter-agency work already happening in Wales. Our concern is that the inclusion of a much greater range of people for Individual Development Plans and attendant services, not least because the age range will increase to 25, also requires an increase in funding and services to match the aspirations of the draft Bill. If additional resources are not provided there is a danger that schools and other service providers will not be able to manage the attendant increased workload.

In terms of Further Education Colleges, and specifically for us St David's Catholic 6th Form College, we note the requirement for colleges to use their 'best endeavours' to meet the needs of young people with additional learning needs. However, there needs to be clarity about where the responsibility lies for best meeting the needs of identified learners and how it will be funded.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The Catholic Education Service welcomes the draft Bill's encouragement to resolve problems at an early stage of difficulty, which should avoid immediate and unnecessary recourse to tribunals.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Catholic Education Service welcomes the plan for a revised Code of Practice to ensure consistency across Wales and in particular the suggestions to :

- raise the status of additional learning needs co-ordinators (ALNCos) in schools, which will benefit children and young people with ALN
- Introduce a qualification for ALNCos, which will help raise the profile of the work
- place ALNCos on school management teams
- ensure schools have a place for ALN pupils in their school improvement plans to encourage high quality inclusion and appropriate differentiation and intervention.

Such steps would be encouraged by the Catholic Education Service to help schools and the 6th Form College provide the best possible learning and outcomes for all children and young people in their care.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input checked="" type="checkbox"/> <input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I think the Scottish model of ASNs is better. This one is as exclusive, stigmatising and divisive as the one it replaces.

University needs to be included.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

No. IDPs will be so bureaucratic that pupils who currently have IEPs at SA will not be catered for by the IDP. Schools will decide that they can't produce such a weighty document for those not at SA+. This might have the unintended effect of cutting engagement with parents around the setting/reviewing of IEPs. This needs to be covered more thoroughly in the Code. As the Code is not yet complete, will be mandatory and will not be put for consultation, I feel I'm only commenting on 'half a story'. In low statementing L.A.s, this move to a highly bureaucratic system will seem to be a retrograde step.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I agree that SENCos need to have further, recognised qualifications – and that this needs to happen as quickly and effectively as possible. However, every SENCo I have spoken to has expressed concerns about this and about the increased workload. Will there be a mandatory amount of time per pupil on role for SENCos?

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

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Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The Code needs to be completed and consulted on if it is to be mandatory.

Where are the assessment skills going to come from if it will be the responsibility of schools to decide whether a pupil has ALNs?

It would have been beneficial to hold consultation events outside school hours. I asked to attend the stakeholder event in Cardiff but was refused because it was during the school day.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Catherine M. Lewis

Organisation (if applicable): Children in Wales

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Further education sector	<input type="checkbox"/>
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	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	x
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>



Children in Wales

Plant yng Nghymru

Children in Wales is the national umbrella organisation in Wales for children and young people's issues, bringing organisations and individuals from all disciplines and sectors together. Children in Wales's core aim is to make the United Nations Convention on the Rights of the Child a reality in Wales. Children in Wales campaigns for sustainable quality services for all children and young people, with special attention for children in need and works to ensure children and young people have a voice in all the issues that affect them.

Children in Wales membership covers a broad spectrum of organisations who work to improve the lives of children in Wales and includes voluntary and third sector organisations, professional associations, local authorities and health bodies, as well as many smaller community groups, schools and individual members. Children in Wales currently has over 260 members, facilitates over twenty forums and networks across Wales, and is represented on external committees, networks and management boards. Children in Wales works in partnership with the National Children's Bureau in England, Children in Scotland and Children in Northern Ireland, and internationally is active in Eurochild and the International Forum for Child Welfare.

Children in Wales works closely with its member organisations and has established working relationships with the Welsh Government and other funders. A key role for our organisations is to maintain a constructive flow of information between those working to develop policy and legislation and those working directly with children and young people. Our conference and extensive training programme, together with the forums and networks that are supported or managed by Children in Wales, serve as a means for ensuring that our members and Welsh Government officials are kept informed of current and evolving developments in the field, and that these developments help shape policies and enhance practice.

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Children in Wales agrees that the definitions of ALN and ALP reflect the focus on *educational* needs. However this is at variance with the term ALN – ie additional *learning* needs. The proposed definition of ALN is very similar to the definition of Special Educational Needs under the 1996 Act which concentrates on children of compulsory school age. It is medically focused and refers only to education and not learning in its broader sense. The definition does not consider the needs of those under compulsory school age, does not consider the right to play and the ways that 0-2 learn. These children are too young to attend early year's settings but they could get support via portage or flying start, but there is no reference to either in the draft Bill. We agree however that using a single term which encompasses children and young people aged 0 -25 helps to avoid some of the stigma associated with the existing terms “special educational needs” and “learning difficulties and or/learning disabilities” but feel that the legislation must clearly reflect the reach and breadth of the Bill. There should be a common understanding of the definition which is applied consistently.

The proposals need to be implemented equally in English and in Welsh, in accordance with the wishes of the children and parents/young people. There are significant deficiencies in the Welsh medium provision for children and young people with ALN at the moment, often due to a lack of capacity within the relevant workforces. Extending the age range, at both ends, is likely to make this problem worse - though Children in Wales welcomed this in principle. Within the pre-school age-group, there are significant numbers of monoglot Welsh-speakers therefore in order to be effective, any assessments needs to be in Welsh.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Children in Wales feels strongly that a move to the IDP must not represent a backwards step in entitlements compared to the current SEN framework,

especially for those children and young people who currently have Statements of SEN. We welcome the statutory status of the IDP while recommending that it outlines the child / young person's legal rights and entitlements to individual specialist support and provision. Currently the draft Bill only requires a description of the child or young person's ALN and a description of their ALP (Section 8). We accept that the Code of Practice goes somewhat further but we are concerned that the current guidance not result in a robust plan that appropriately outlines a child or young person's key ongoing support needs, such as the provision of a BSL interpreter or the maintenance of equipment to support hearing or vision for children with sensory impairments. This could be detailed in sections headed 'Adaptations', 'Equipment' or 'Access support'.

Children in Wales is concerned that in moving away from Statements a substantial level of responsibility will be transferred from Local Authorities to schools - in terms of making determinations about ALN, and also in terms of drawing up and maintaining IDPs. If that is the case, it will be essential to plan for the side-effects of such a transfer particularly in terms of: - securing sufficient budgetary resources ensuring sufficient staffing levels - providing a sufficient level of timely training (for governing bodies, school leaders, ALNCos, teachers and support staff ensuring that a sufficient and timely level of expert advice is made available to schools) There is likely to be significant pressure on smaller schools, where staffing levels can be very low, and yet where there can be a high percentage of children with ALN.

We recommend that greater clarity is needed as to when schools can refer assessments and IDP to a local authority. However Children in Wales would strongly suggest that local authorities are always responsible for preparing and maintaining the IDP of children and young people with low incidence disabilities such as sensory impairment. We also recommend that the local authority education inclusion teams are maintained and funded centrally, with a ring fenced budget from within the Local Authority.

Children in Wales is concerned that no template for the IDP is being proposed. This will result in each setting potentially developing their own which will not only result in extra work for professionals but make it less portable. (S23 of draft Bill refers to proposed regulations to make the IDP transferrable and it makes it more difficult if there isn't a common template) If IDPs look different, it will make it difficult for agencies who support children and young people to achieve their rights, to check whether it contains all the required information. We accept that the IDP needs to be age appropriate but this can be overcome by the Welsh Government developing a small number of age appropriate templates. An appropriate template for children in the early years could be the Family File within the Early Support programme which has been adapted to fit with the IDP.

Children in Wales supports the intention in the draft bill to require all maintained nurseries, schools and FEIs to appoint an ALNCo and that S46 of the draft Bill says that regulations may require ALNCO to be appropriately qualified and experienced. We also welcome comments in paragraph 41 and 42 respectively that the ALNCo should form part of the senior leadership team

and that it is vital that the ALNCo has sufficient time and resource to undertake their responsibilities effectively, including time away from teaching. However Children in Wales feels that the workload, expectations, roles and responsibilities of the ALNCo described within the draft Code of Practice are vast and onerous and difficult for one person to meet unless the role of ALNCo will be a full-time role. It's hard to envisage combining these responsibilities with a teaching timetable, particularly in view of: - the significant workload (including at management level) - the level of expertise required the need for flexibility in order to be able to meet various different stakeholders and agencies during the school day. In those cases where it is not practical to make a single full-time appointment, e.g. in small schools, the Code should note the possibility of a joint appointment between a cluster of schools. However, care must be taken in these cases to be clear about who is the employer, and to ensure school teachers' pay and conditions.

Children in Wales is disappointed that the IDP will be limited to further education settings. We are concerned that young people with ALN wishing to pursue alternative learning paths, such as those undertaking apprenticeships, will not be afforded the same support as their peers in further education.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Children in Wales recommends that a children's rights approach should be evident in ALN provisions and processes. In order to promote an individual's potential, hopes and aspirations the child or young person must be the clear and unequivocal focus of ALN development and delivery. We are concerned that there is no reference to the United Nations Convention on the Rights of the Children or the United Nations Convention on the Rights of Disabled People on the face of the Bill and recommend that this is rectified.

The approach should be based on a presumed need for support, to maintain a children's rights based approach; which ensures that children and young people do not have to be seen to be failing before they can access support from an IDP.

Children in Wales welcomes the statement in paragraph 316 of the Code of Practice that to prevent any unnecessary delay in putting in place the support the learner needs; an IPD must be established within the timescales even though the school has not met with the parent. Similarly in paragraph 320, the local authority must not be stopped from determining if the child or young person has an ALN and preparing an IDP even though there may be some

outstanding requested reports. However the latter should be accompanied by a statutory duty to follow up on such reports within a timely fashion so that the IDPs contain solid information on the support that the child needs and will be provided with.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Children in Wales welcomes the emphasis on joint working which will hopefully avoid unnecessary duplication and ensure that all relevant professionals communicate to effectively plan and provide for the children or young people. However coordinating joint-working requires significant amounts of time, and it will be necessary for the person who has responsibility for co-ordination (usually the ALNCo) to be available for periods throughout the working day. This is not compatible with a teaching timetable.

Furthermore we note that one of the intended consequences of the legislation is to facilitate collaboration between services and agencies to deliver “effective, child centred support for learners with ALN”. (Explanatory memorandum 3.1) We are, however, disappointed that 3.43 of the same document states that “most of these function will be the same or similar to functions exercised by these bodies under existing legislation.” Children in Wales believes that the draft Bill misses the opportunity to legislate for improved multi-agency working to support children, young people and their families.

The appointment of a designated medical officer (S47) as the single point of contact leading on Local Health Boards’ (LHB) contribution to ALN, as set out at Section 47 is welcomed. However although health bodies will be required to deliver any Additional Learning Provision it has agreed to secure (S14), we are very concerned that health could potentially negate any involvement in the Individual Development Plan by not agreeing to any provision. This potential lack of clarity should be resolved before the Bill is formally introduced. The draft Bill does not clarify how disagreements between the local authorities and health boards could or would be resolved. This also needs to be resolved.

Children in Wales welcomes the comment in paragraph 18 of the Code of Practice that “Consultative responsibilities and effective communication systems at management and practitioner levels should be clearly identified as critical to effective multi-agency working” and the information in the following

paragraph about what multi-agency should do. However all this is reliant on professionals and agencies working together in the best interests of the child or young person, which is one of the key principles of the Code. Children in Wales therefore recommends this is strengthened and instead a duty to work in a multi-agency way and deliver multi-agency services is established which is underpinned by local protocols between Health, Social Services and Education to secure effective multi-agency working and mandate effective co-ordination and provision of support. Examples of successful programmes promoting multi-agency working exist, such as the Early Support programme and Real Opportunities and learning from these should be adopted.

One of the provisions within both programmes was a key worker who supported the children and family or the young person during the assessment, planning and review process and coordinated the bringing together of the various agencies and statutory bodies while ensuring that the children / young person remained at the centre through using a person centred planning approach. In evaluations of both programmes, the key working approach was praised by children / families and young people. Children in Wales is therefore disappointed that the current draft Bill does not make provision for the key worker model and recommend that this is rectified.

We believe that draft Bill presents a missed opportunity to truly integrate provision for children and young people in a holistic way. We therefore recommend that the IDP should include sections on a child or young person's social and health needs in relation to their learning and that the potential cross over between the assessment of ALN and the assessment provisions in legislation such as The Social Services and Well-being (Wales) Act 2014 is fully considered in the development of the ALN Bill

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Children in Wales believes that the right to support disagreement avoidance and resolution framework is clear in the draft Bill, but what is not clear is how the child, young person or family would access this service, that is whether there will be an open access process or referrals by agencies.

We recommend that national guidelines are developed to ensure that Independent Advocacy Services, Family Partnership Services and Dispute

Resolution Services are appropriately distinct, independent and of a consistent minimum standard and that there are guidelines for consistency in complaints mechanisms. As many children and young people will require input from health as part of their journey through the ALN system, clarity is needed with regards streamlining DRS with Putting Things Right.

The draft Bill currently restricts independent advocacy, and the provision of an independent advocate to children and young people:

- a) Making, or intending to make an appeal to the Education Tribunal for Wales under this Act,
- b) Considering whether to appeal to the Tribunal, or
- c) Taking part in or intending to take part in arrangements made under section 37 [avoidance and resolution of disagreements] (38)

Children in Wales believes that advocacy should be available at all stages of the ALN Framework and not just at appeal. We believe that the intention should be to achieve a negotiated settlement which meets the child's needs early in the process before recourse to an appeal is reached.

Disagreement resolution should be able to run concurrently with appeal to the Education Tribunal for Wales. This will ensure that children and young people who are appealing at local authority level about decisions made by Governing bodies will not experience delay in accessing the services of the Tribunal in comparison with their peers in FEIs, who can go directly to the Tribunal, bypassing the local authority level (see Section 40).

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The duty to favour the education of children at mainstream maintained schools.

Children in Wales supports an inclusive education system where this is appropriate to the individual needs of the learner and know of many children and young people with ALN who thrive in mainstream settings. However there will be some children and young people whose needs are best met in specialist settings. We are therefore very concerned that paragraph 364 and 365 of the Code of Practice mentions that the child with ALN must be educated in a mainstream school except “where such mainstream education would be incompatible with the provision of efficient education for other children”. This makes no reference to the fact that the child or young person with ALN themselves and their families may be of the view that they may require provision in a specialist placement because their needs are not being

met in a mainstream school.

Transition and Preparing for Adulthood

Children in Wales recommends that there must be clarity for all agencies about the support needed at key transition points by children and young people. While the draft Code of Practice has a chapter on Transition and preparing for adulthood, the detail is limited. Children in Wales notes that the content will be developed alongside the regulations and we will be submitting information to populate this section. We recommend that professionals from social services, health and the voluntary sector contribute to the development of the transition to adulthood section as a multi-agency approach is vital. We are concerned that the draft Bill and Code of Practice makes no reference to the WG funded Transition Key worker programme which ran from 2008 and were evaluated in 2013 or the Real Opportunities Project that worked across 9 local authority areas with young people with Learning Disability, Severe and Complex Needs or an Autistic Spectrum Disorder to help them plan for the future and become as independent as possible in their adult lives. The latter was funded through convergence funding and evaluated in 2014. TSANA is concerned that learning from both these projects is being lost. A WG Transition External Reference Strategic Group was established in 2008 as part of the transition key workers pilot. SNAP produced a guide for parents to transition while a guide for professionals giving details of organisations responsibilities in the transition process. A transition plan was also devised for use by disabled young people and adults alike. None of the guides and plans were published by the WG and again this represents a waste of public money.

Person Centred Practice / Approach

Children in Wales welcomes the adoption of a person centred approach in the Code of Practice and the need to ensure a child or young person is involved at every stage of the process and their views, wishes and feelings are listened (Para 22) and agree that this should help the child or young person to personalise their learning through the identification of targets that build on their strengths. This might be termed a person-centred approach. We agree that this person-centred approach in the planning and provision of support should mean that the learner is listened to, kept at the heart of decision-making and that the learner's needs should be the starting point when considering the support to be provided. However to enable education providers to adopt these approaches will require a cultural change and in house training, rather than just accessing web based resources. The apparent person-centred approach is undermined by reverting to a service-based model.

Children in Wales supports the WG commitment to the adoption of a person centred approach and notes that the draft Explanatory Memorandum states that there will be a "statutory underpinning to the Welsh Government's existing policy of promoting a much more person-centred approach to identifying needs and appropriate actions to meet those needs and help to ensure that IDPs are developed in accordance with the principles of person-centred thinking and planning." It continues :-

"The process should be less confrontational and adversarial which would reduce the mistrust and frustration which parents/carers currently report. The statementing process, which some perceive as being 'done to' them, would be replaced by an IDP that is developed through a person-centred approach which would involve the learner and parent/carer. This would enable the learner to be involved in any decision that involves them. The process would also reduce the level of confrontation and facilitate early resolution of disagreements." We hope that this will be the case.

The ALN framework should ensure consistent access to Welsh language specialist assessments and services through encouraging regional commissioning and provision.

There is no mention of the Welsh language on the face of the Bill.

None of the supporting documents make reference to the current systemic difficulties of securing Welsh medium provision for children and young people with ALN. Neither do they acknowledge the importance of ensuring that the processes should be delivered in Welsh if this is the child/parents/young person's chosen language. Consequently, no attempt is made to improve the current situation. The reference in paragraph 14 of The Code to the Welsh Language Standards is insufficient. Although Local Authorities come under the jurisdiction of the Standards, they are not consistent across authorities, and therefore will not lead to a consistent level of service or provision across Wales. Furthermore schools are not covered by the Standards.

Children in Wales recommends that The Code should note the following requirements in relation to the Welsh language: -

- The right to Welsh language provision and to participate in all processes in Welsh, including multi-agency working.
- The language choice of the children/parents/young people must be respected with practical steps taken to ensure this occurs such as providing the information and advice in Welsh either on paper, electronically or orally
- The mandatory information in the IDP should note (a) the language in which the child/young person's education is currently being provided (b) the child/parents/young person's preferred medium of communication
- The right to participate in the dispute resolution and appeals process in Welsh, including independent advocacy

All of the above should be mandatory requirements within the Code of Practice in order to ensure clarity in relation to responsibilities, duties and rights. Additionally in accordance with the basic principle of the Welsh Language Measure (2011) that the Welsh language should be treated no less favourably than English, providing or administering services in Welsh should not entail any delay and should not result in a less satisfactory service for the

users.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Children in the Early Years

The new legislative framework is from 0-25 years of age but there is a lack of information in the draft Bill and the C of Practice (CoP) about children in the early years. Both documents appear to replicate the current system which applies to children and young people of statutory school age only and this is illustrated by the reference to pupils which doesn't include children in the early years. We note that in Chapter 7 of the CoP, it states that the Welsh Government is developing an Early Years Development and Assessment Framework (EYDAF) - the Code will set out detail of how the EYDAF can be applied to assist the identification of children with ALN and would The new ALN framework must recognise that learning begins from birth and that there is clarity with regards to the local authority's duties to meet the ALN of children in the early years, specifically in relation to delegated functions to other agencies, including health, in the 0-2 age range and in non-maintained settings.

The early years are crucial in a child's development and it is imperative that children with additional learning needs have access to an IDP. Children in Wales therefore recommends that an IDP referral is made following identification of ALN to ensure appropriate support is in place at the earliest opportunity and that waiting for an assessment should not be a barrier to a setting providing suitable provision.

Families must have clarity regarding the agencies responsible and involved in ensuring that young children with additional needs receive support in pre-school settings; families need to know who is responsible for the funding if required; and who is responsible for initiating an IDP, for example, a Health Visitor.

The Early Support Programme

Children in Wales is extremely disappointed that there is no reference in the draft Bill or Code of Practice to the 4 year WG funded Early Support programme which was developed to improve the lives of children from 0 – 5 years of age with additional needs and their families through offering improved coordination and multi-agency support. Children in Wales led a partnership to deliver the programme across Wales which included Action for Children, Barnardos, Contact a Family, Downs Syndrome Association,

Learning Disability Wales, NDCS, SNAP, RNIB, Mudiad Meithrin.

The Evaluation Report on the Implementation of Early Support produced by Independent Evaluator, in December 2011 identified some of the benefits of Early Support as:-

- A more holistic approach to the child and their family
- Increased parental involvement plus a more equal role for parents in decisions regarding their children
- Positive impacts on quality of life for children and their families
- Placing children and families at the centre of partnership working
- Galvanising a multi-agency focus on the under 5's
- Promotion of inter-agency working
- Enhanced joint working at the strategic level

The key learning points and conclusions from the report highlighted :-

- the improved quality of service with evidence from parent/ carers and professionals that Early Support is making a clear contribution to the quality of service experienced by families with a young disabled child. Early Support also served as a catalyst for service development and enhanced inter-agency working at the local level.
- Informing and empowering parents thereby both supporting them in their parenting role and enhancing their capacity to achieve the best possible outcomes for their children. Early Support also promotion of the Social Model of Care with parents welcoming the ethos of seeking to support the family services as a whole rather than a focus on only treating the child's medical condition.

A key working service acted as a single point of reference and contact for families and professionals alike. This was augmented by various materials and courses which are detailed in the appendix.

Representatives of Early Support were also invited to sit on groups which were leading on the development on statutory reform such as the Expanded Individual Development Plan Trialling Phase Project Planning Group as Early Support was recognised as being an integrated part of the Addition Learning Needs developments and the piloting of the Individual Development Plan (IDP). This was further reinforced by a presentation that gave on behalf of the WG in the Early Support Conference in 2013. In a slide titled "The IDP process and the Early Years" it is noted that "it soon became evident that the IDP process linked directly with Early Support; highlighted information similar to that contained within the Early Support Family File and the latter has now been designed to fit with the IDP; would support very young children; supports planning into education and aids multi-agency working and communication." Children in Wales had therefore anticipated that Early Support would be identified as the model to support children from 0 -5 towards a seamless transition into school.

Although take up of the programme was patchy across Wales, some local authorities have embed Early Support into mainstream service provision and

Children in Wales will be pleased to provide further details on this to the WG. Furthermore in England the ten principles of which Early Support is based on ie:- Valued uniqueness; Planning partnerships; Key working; Birth to adulthood; Learning and development; Informed choices; Ordinary lives; Participation; Working together and Workforce development can be seen reflected in the Section 19 of the Children and Families Act 2014 which emphasises the importance of person-centred outcomes and the active participation of children, young people and parent carers. These are also contained in the draft Additional Learning Needs and Education Tribunal (Wales) Bill.

Children in Wales therefore strongly recommend that the Early Support Programme is not only used as the process to support young children in the early years but that the learning from the programme is expanded across the age range of the ALN reforms.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input checked="" type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input checked="" type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

I do not know enough about this to comment I am not sure how everything can be linked.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

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Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

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Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The inclusion of a dedicated medical officer is healthy, as often the communication between school and health is not good enough

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The word “tribunal” suggests disputes the name of the bill already has connotations.

It would suggest that those with “Loud Voices,” those likely to complain will be heard first. Our most vulnerable members of society will struggle.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all

Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The name suggests dispute.
The bill was extremely difficult to read.
It is not clear what constitutes ALN- a set criteria is required.
New ALNco required to undertake training. Not all ALNco's will want this role, in smaller schools this role is additional to other responsibilities.
If specialists suggest programmes/resources/ and the school is unable to offer that, is the school accountable?
Possibility of those parents with the capabilities pursuing more and the most vulnerable parents and children being left behind.
ALN- suggest less mobility, the current SEN register is quite fluid, children can come off it easily.
IDP's – marathon task! Will it become the remit that every child who receives some sort of intervention has an IDP? Currently only individual paperwork is required for SA+
IDP- if a specialist service suggests something does that become a legal obligation? If yes, different authorities will all need to run the same programmes to avoid discrepancies.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:





Rhieni dros Addysg Gymraeg

Ymateb Rhieni dros Addysg Gymraeg

i'r

Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

At sylw:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

Cyswllt:

1. Sylwadau Cyffredinol

1.1 Mae RhAG yn falch o'r cyfle i gyflwyno dystiolaeth ysgrifenedig mewn perthynas â'r Bil drafft. Mae llawer o'n sylwadau yn seiliedig ar ein hymateb i'r Papur Gwyn, a gyhoeddwyd fel dogfen ymgynghorol rhwng 22 Mai a 25 Gorffennaf 2014.

1.2 Mae RhAG yn croesawu'r weledigaeth sylfaenol a grisialir yn y Bil, sef i gysoni a symleiddio'r prosesau a chreu cyfundrefn sy'n fwy unedig, cyd-gysylltiol a theg. Cefnogwn amcanion y ddeddfwriaeth, sef i gynnig atebion ymarferol i ddiffygion y system bresennol ac adlewyrchu'n well y sefyllfa genedlaethol sydd ohoni heddiw.

1.3 Byddwn yn canolbwytio yma ar ein prif bryderon ac yn nodi'r meysydd hynny y credwn y dylid rhoi ystyriaeth iddynt fel rhan o'r ymgynghoriad. Bydd nifer o'n sylwadau yn cyffwrdd ar gynnwys y Cod Ymarfer arfaethedig yn ogystal â'r Bil drafft ei hun.

2. Y Gymraeg

2.1 Caiff unrhyw ymdrechion i sefydlu cyfundrefn sy'n fwy cynhwysol a chyfannol drwy'r cynigion deddfwriaethol dan sylw eu tanseilio'n syth o ganlyniad i ddiffyg cydnabyddiaeth o'r cyd-destun ieithyddol yng Nghymru.

2.2 Mae RhAG – ynghyd â nifer o fudiadau eraill sy'n gweithio i hybu a hyrwyddo'r Gymraeg – wedi codi mater y Gymraeg ym mhob ymgynghoriad ar y mater hwn ers blynnyddoedd, ac mae'n destun gofid a phryder sylweddol nad ydym wedi gweld unrhyw gynnydd neu welliant ar hyd y daith.

2.3 Nid yw rhoi 'ystyriaeth i bob ymateb a ddaeth i law yn sgil ymgynghoriadau blaenorol' yn ddigonol nac yn dderbyniol.

2.4 Mae'n syfrdanol felly bod ystyriaethau allweddol yn ymwneud â'r iaith Gymraeg yn parhau i fod ar goll yn y Bil a'r dogfennau ategol.

2.5 Dylai darpariaeth cyfrwng Cymraeg fod yn elfen greiddiol a chanolog o'r Bil newydd, y Memorandwm Esboniadol a'r Cod Ymarfer arfaethedig ac nid ystyriaeth ymylol fel sydd ar hyn o bryd.

2.6 Polisi cenedlaethol Llywodraeth Cymru yw cynyddu'r cyfleoedd i gael mynediad at addysg Gymraeg trwy ehangu'r ddarpariaeth. Tra bod twf mewn addysg cyfrwng Cymraeg a dwyieithog, nid oes tystiolaeth o dwf cyffelyb yn y ddarpariaeth ar gyfer plant a phobl ifainc ag anghenion addysgol ychwanegol.

2.7 Mae potensial i weddnewid y sefyllfa ond mae hynny'n gwbl ddibynnol ar dalu sylw teilwng a dyledus i'r Gymraeg a darpariaeth cyfrwng Cymraeg o fewn unrhyw gynigion deddfwriaethol newydd.

2.8 Mae Mesur y Gymraeg (2011) yn gosod y cyd-destun cyfreithiol lle na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg. Credwn y dylai egwyddorion cyfreithiol y Mesur fod yn ystyriaeth trofwaol i'r ddeddfwriaeth arfaethedig yn yr un modd ag y mae egwyddorion Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn. **Dylai hynny fod yn egwyddor sylfaenol.**

2.9 Fel Strategaeth Iaith y Llywodraeth – Iaith fyw: iaith byw – credwn bod hwn yn fater o gyfleoedd cyfartal sylfaenol:

“Mae cyfle cyfartal yn thema drawsbynciol sy'n allweddol i'r ddogfen hon ac i holl bolisiâu Llywodraeth Cymru. Ni ddylai unrhyw un, mewn unrhyw ran o Gymru, fethu â manteisio ar gyfleoedd i ddefnyddio'r Gymraeg, nac ychwaith fethu â manteisio ar gyfleoedd i ddysgu'r Gymraeg oherwydd eu hil, ethnigrwydd, anabledd, rhyw, cyfeiriadedd rhywiol, oedran neu grefydd (t.19).

2.10 Ategir hynny yn y Strategaeth Addysg Cyfrwng Cymraeg (12:2010).

2.11 Mae cynllunio strategol ar gyfer ADY hefyd erbyn hyn yn ofyniad statudol o fewn y gyfundrefn Cynlluniau Strategol y Gymraeg mewn Addysg:

“AS1.5: Disgwyl gwell cynllunio ar gyfer darpariaeth a gwasanaethau addysg cyfrwng Cymraeg i ddysgwyr ag anghenion dysgu ychwanegol (ADY) fel rhan annatod o ddarpariaeth addysg yn genedlaethol, yn rhanbarthol ac yn lleol.”

Strategaeth Addysg Cyfrwng Cymraeg, Llywodraeth Cymru.

2.12 Mae'r Memorandwm Esboniadol yn nodi bod cynigion y Bil drafft yn ‘cefnogi’ Strategaeth Iaith Fyw: iaith byw a Strategaeth Addysg Cyfrwng Cymraeg a'u bod yn ‘ategu gofynion Cynllun Strategol y Gymraeg mewn Addysg’ (paragraff 7.255). Aiff ymlaen i ddweud ym mharagraff 7.256, ‘Mae ein cynigion yn cefnogi’r camau i sicrhau darpariaeth Gymraeg. Bydd y Cod yn rhoi gwybodaeth bellach ynghylch darpariaeth Gymraeg.’

2.13 Mae ieithwedd amwys o'r fath yn ei gwneud yn amhosib i ddirnad sut bydd y Bil drafft yn asio gyda pholisiau a strategaethau allweddol o safbwyt y Gymraeg, yn arbennig o ystyried nad oes unrhyw gyfeiriad at y Gymraeg yng nghorff y Bil.

2.14 Yn wir, mae cymal yn y Strategaeth Addysg Cyfrwng Cymraeg yn nodi fod pwerau eisioes ym meddiant Llywodraeth Cymru i weithredu ar hyn - ond unwaith eto, mae angen canllawiau a thargedau pendant ar sut caiff y pwerau hyn eu defnyddio. Credwn fod angen i unrhyw Gôd Ymarfer newydd fanylu ar sut y cyflawnir hynny.

2.15 Nodwn bod yr *Asesiad o'r Effaith ar y Gymraeg* yn cynnwys rhestr o bwyntiau y ‘mae'n debygol y bydd y Cod drafft yn cynnwys’ mewn perthynas â'r Gymraeg. Mae'r Asesiad Effaith yn cyffwrdd ar rai (ond nid y cyfan) o'r materion perthnasol; credwn mai prif wendid yr Asesiad Effaith yw ei fod yn cymryd ymagwedd gyffredinol o effaith cynigion y Bil drafft ar holl ddysgwyr ADY, ond heb sylw penodol ar natur yr effaith ar ddarpariaeth cyfrwng Cymraeg. Mae'n hysbys fod

gan y sector anghenion a gofynion unigryw; o safbwyt dysgwyr, teuluoedd ac ymarferwyr, ac felly mae angen cydnabod hyn a manylu ynghylch sut y bydd y cynigion deddfwriaethol nid yn unig yn ymateb i hynny ond yn darparu ar ei gyfer.

2.16 Ymddengys bod un darn o waith anhepgorol sydd wedi ei anwybyddu'n llwyr wrth ymdrin â'r maes, sef Adroddiad *Cydnabod Angen: Arolwg o ddarpariaeth cyfrwng Cymraeg a Dwyieithog ar gyfer disgyblion ag Anghenion Addysgol Arbennig yng Nghymru* (2001).

2.17 Dyma adroddiad cynhwysfawr gan arbenigwyr yn y maes sydd yn cynnwys cyfres o argymhellion a ddylai fod yn sail i gynnwys y Cod Ymarfer. Ymddengys fod y gwaith nodedig hwn, i raddau helaeth, wedi'i anwybyddu ers ei gyhoeddi. Mae angen gwneud defnydd helaeth ohono gan fod cymaint o'r argymhellion yn parhau yr un mor berthnasol heddiw.

2.18 Credwn fod y Bil drafft dan sylw yn cynnig cyfle i osod gwaelodlin sy'n sefydlu'r egwyddor o hawl i ddarpariaeth ar gyfer disgyblion gydag anhawsterau dysgu yn unol â dewis iaith y rhiant.

2.19 Dylid cadarnhau bod iaith yn *angen* (need) fel egwyddor sylfaenol ar wyneb y Bil, a thrwy hynny sefydlu'r hawl i ddewis a derbyn darpariaeth a/neu wasanaeth / gwasanaeth cefnogol trwy gyfrwng y Gymraeg. Dylid rhaeadru ystyriaethau'n ymwneud a'r iaith Gymraeg a darpariaeth cyfrwng Cymraeg trwy pob elfen o'r ddeddfwriaeth ac unrhyw God Ymarfer newydd arfaethedig. Ni ddylid gwahaniaethu ar sail cefndir ieithyddol yr unigolyn, boed ef/hi yn siaradwyr Cymraeg, yn ddysgwyr neu'n siaradwr di-Gymraeg.

2.20 Polisi Llywodraeth Cymru yw symud at gynnydd nifer y bobl sy'n siarad y Gymraeg ac ehangu'r cyfleoedd i ddefnyddio'r iaith, yn arbennig ym mheuoedd y teulu a'r gymuned. Rhaid osgoi sefyllfa ble caiff teuluoedd sydd â phlant gydag anhawsterau dysgu ychwanegol eu hamddifadu o'r cyfle i brofi a chwarae rhan llawn yn y weledigaeth honno, ac yn hytrach greu byd sy'n amherthnasol neu'n gaeëdig iddynt.

2.21 Mae Deddf Addysg 1996 a Chod Ymarfer Anghenion Addysgol Arbennig Cymru, 2004 yn gwneud darpariaethau sy'n golygu bod disgyblion gyda anghenion dysgu ychwanegol yn rhan greiddiol o holl brosesau cynllunio ar draws pob cyfnod addysgol. Mae'n rhaid i AALLau geisio diwallu anghenion disgyblion AAA yn unol â dewis y rhieni o safbwyt darpariaeth a chydnabod hawliau plant gyda AAA i dderbyn darpariaeth yn eu dewis iaith.

2.22 Y pryder ar hyn o bryd yw nad yw hynny'n cael ei wireddu ar lawr gwlad. Mae'r ddarpariaeth Anghenion Addysgol Ychwanegol yn parhau'n ddiffygol mewn sawl rhan o Gymru, ac mewn rhai meysydd yn fwy nag eraill. Mae anghysondeb yn y modd caiff teuluoedd eu trin; y ddarpariaeth sydd ar gael; ynghyd â lefel yr arbenigedd a'r gefnogaeth sydd ar gael. Mae'n ddarpariaeth anghyson sy'n parhau i fod yn loteri cod post. Ein pryder sylfaenol yw nad yw difrifoldeb y sefllfa'n cael ei adlewyrchu yn y Bil a'r dogfennau ategol.

2.23 Wrth i addysg Gymraeg ehangu ymhellach mae'n anochel y bydd achosion (yn arbennig mewn meysydd fel iaith a lleferydd) yn dod yn fwyfwy cyffredin. Nid yw'r Bil, na'r Memorandwm Esboniadol yn adlewyrchu natur ieithyddol amrywiol Cymru a'r gofynion sy'n deillio o hynny. O gofio bod y mwyafrif o ddisgyblion yn y sector cyfrwng Gymraeg yn hannu o gefndiroedd di-Gymraeg, a bod twf addysg Gymraeg yn fwyafriol mewn ardaloedd mwy Seisnigedig, mae'n bryder sylfaenol y bydd rhieni nad ydynt yn siarad y Gymraeg yn medru cael yr un cyfleoedd a thegwch i'w plant gael mynediad at Addysg Gymraeg.

2.24 Yn yr un modd, mae angen sylw penodol mewn perthynas â phlant o deuluoedd Cymraeg eu hiaith nad ydynt wedi dod i gysylltiad sylweddol â'r Saesneg, h.y. plant sydd i bob pwrpas yn uniaith Gymraeg. Mae angen darpariaethau a fydd yn nodi'n glir sut y bydd trefniadau asesu, darpariaeth a chefnogi yn cael eu darparu trwy gyfrwng y Gymraeg. Unwaith eto, nid yw'r Bil na'r dogfennau ategol yn cyfeirio o gwbl at hyn.

2.25 Mae'r rhain yn faterion allweddol y dylid rhoi sylw dyledus iddynt, o fewn y Bil ei hun a/neu mewn unrhyw God Ymarfer newydd.

3. Cyfrifoldebau Awdurdodau Lleol

3.1 Mae RhAG o'r farn bod angen cynnal awdit cyffredinol o'r ddarpariaeth fesul sir, a sicrhau bod cydweithio rhyngsirol yn cael ei hwyluso i roi tegwch i ddisgyblion sydd eisoes yn dioddef o anableddau neu anawsterau dysgu. Gallai'r cydweithio rhyngsirol hwn fod ar ffurf canolfannau rhagoriaeth rhanbarthol a fyddai'n cefnogi canolfannau lloeren.

3.2 Ceir o hyd enghreifftiau o arbenigwyr yn cynghori rhieni i symud eu plant o'r sector cyfrwng Cymraeg i'r sector Saesneg gan ddatgan y byddai'r plentyn 'ar ei ennill' o wneud hynny. Mae hyn yn ddull o beidio darparu gwasanaeth Cymraeg, ac mae'n gwrthod hawl disgybl o gael addysg yn ei ddewis iaith. Os yw'r plentyn neu'r rhiant yn fregus, yna cred RhAG fod mwy o ddadl dros ddarparu'r lefel uchaf o gefnogaeth.

3.3 Profiad RhAG yw mai rhieni fel arfer sy'n parhau i orfod brwydro er mwyn sicrhau darpariaeth, a thrwy eu dycnwch a'u hymdrehchion hwy y gellir priodoli unrhyw lwyddiant.

3.4 Cred RhAG bod angen gwrthdroi'r feddylfryd a'r arferiad adweithiol gan Awdurdodau Lleol ac i roi'r ernes arnynt i berchnogi rôl mwy rhagweithol, yn hytrach na'r sefyllfa arferol ble mae rhieni yn gorfol gofyn neu wthio'r broses. Rhaid chwyldroi'r modd y mae Awdurdodau Lleol yn cyflawni eu dyletswyddau tuag at blant gyda ADY.

3.5 Dyma rai meysydd y dylid rhoi sylw i hyn, naill ai ar wyneb y Bil neu yn y Cod Ymarfer:

3.6 Pennod 4 y Cod: Cynnwys a chefnogi plant, eu rhieni a phobl Ifanc sy'n ymdrin â dyletswyddau i annog cyfranogiad plant, pobl Ifanc a'u

teuluoedd yn y broses. Tra bod yr egwyddor o wneud hynny i'w gymeradwyo, nid oes unrhyw gyfeiriad at bwysigrwydd parchu dewis iaith y plant, pobl Ifanc na'r teuluoedd yn y broses honno.

3.7 Pennod 5 y Cod: Cyngor a Gwybodaeth

Mae'n gwbl allweddol bod datganiad clir ynghylch disgwyliad i unrhyw wybodaeth neu gyngor fod ar gael yn y Gymraeg – boed hynny'n ysgrifenedig, electronaidd neu ar lafar. Pwysleisiwn y dylid ymrwymo darparwyr trydydd parti / allanol sy'n cyflenwi gwasanaeth ar ran yr ALI.

3.8 Penodau 20 a 21 sy'n cyfeirio at yr hawl i gael ymwneud â phrosesau datrys anghydfodau ac apeliadau at y Tribiwnlys drwy gyfrwng y Gymraeg. Pwysleisiwn yr angen i gadarnhau bod gan ddysgwr a'i deulu yr hawl i wneud hynny drwy gyfrwng y Gymraeg.

3.9 Safonau'r Gymraeg: Ceir cyfeiriad at Safonau'r Gymraeg ym mharagraff 14 o'r Cod Ymarfer. Disgwylir i bob ALI weithredu'r safonau newydd o Ebrill 2016 ymlaen, ond ni fydd pob safon yn gymwys i bob corff cyhoeddus gan y bydd hysbysiad statudol pob corff yn amrywio. Mae hynny'n rhwym o arwain at sefyllfa ble bydd y ddarpariaeth ADY yn anghyson ledled Cymru. Mae'n gamarweiniol felly i ddisgwyl i'r Safonau newydd weithredu fel math o 'rwyd diogelwch cenedlaethol' o safbwyt ADY, ac felly mae angen nodi a chyd nabod hynny yn ogystal â chynnig eglurder ynghylch sut bydd y cynigion deddfwriaethol newydd yn sicrhau na fydd ADY yn parhau'n loteri cod post.

4. Gweithlu a hyfforddiant

4.1 Roedd yn siomedig gweld na roddwyd sylw teilwng i faterion ieithyddol o ran sgiliau'r gweithlu yn yr 'Asesiad o ofynion datblygu'r gweithlu anghenion addysgol arbennig' a gynhaliwyd yn ddiweddar. Nid oes modd cyfiawnhau diffygion o'r fath mewn perthynas ag elfen cwbl greiddiol o ran cyflawni amcanion y Bil yn ymarferol.

4.2 Mae'n rhaid sicrhau bod darpariaeth arbenigol digonol ar gael drwy gyfrwng y Gymraeg a hynny ar draws y disgyblaethau, e.e. therapyddion iaith a lleferydd, seiciatreg, cymorth dyslecsia ac ati, ar sail statudol. Mae bylchau sylweddol yn y ddarpariaeth ar hyn o bryd yn sgil diffyg ymarferwyr ac arbenigwyr proffesiynol cymwys sy'n medru gweithio trwy gyfrwng y Gymraeg. Credwn bod modd i'r ddeddfwriaeth sicrhau hyn ac y dylid ymgorffori'r manylder angenrheidiol er mwyn cyflawni hynny mewn unrhyw God Ymarfer.

4.3 Mae angen sicrhau hyfforddiant digonol, pwrpasol ac arbenigol, i gychwyn gyda chyrsiau hyfforddi athrawon a gweithwyr yn y meysydd dan sylw. Rhaid hyfforddi a chefnogi athrawon yn fwy effeithiol ynglŷn â'r ffyrdd o adnabod anghenion, sut i ymyrryd yn ddigon buan a sut i gefnogi disgyblion yn yr hir-dymor. Mae cynllun hyfforddi tymor hir er mwyn galluogi ac arfogi'r sector i ymateb yn effeithiol i ofynion y Bil newydd yn gwbl allweddol.

4.4 Mae RhAG o'r farn bod materion sydd angen manylu yn eu cylch yn y Cod Ymarfer arfaethedig, yn cynnwys:

- Awdit o'r ddarpariaeth bresennol.
- Cydweithio rhwng siroedd i ddarparu cydraddoldeb i ddisgyblion mewn addysg Gymraeg.
- Hyfforddiant pwrpasol i gynyddu nifer y staff sy'n gallu cynnig gwasanaeth arbenigol i ddisgyblion gyda anghenion ychwanegol, gan gynnwys gosod targedau penodol er mwyn symbylu'r twf angenrheidiol.

4.5 Rydym yn croesawu'r bwriad i ddiffinio a chadarnhau rôl y Cydlynnydd ADY ar sail statudol yn y Cod drafft arfaethedig. Mae penodi unigolyn cymwys i arwain yn y maes ar lefel ysgol yn ddatblygiad cadarnhaol ond credwn fod angen cydnabod cyd-destun amrywiol y ddarpariaeth ysgol ledled Cymru. Mewn ysgolion o faint sylweddol, ni ddylai'r gwaith o benodi fod yn dasg anymarferol ond nid dyna'r achos ym mhob achos e.e mewn ysgolion bach. Credwn felly y dylid nodi'r posiblwydd o benodi Cydlynnydd ADY llawn amser ar gyfer clwstwr o ysgolion. Yn yr un modd, mewn ardaloedd ble mae

nifer llai o ysgolion Cymraeg neu lle mae ysgolion Cymraeg newydd gael eu sefydlu, credwn y dylai'r un egwyddor fod yn berthnasol yn yr achosion hynny yn ogystal.

5. Cyfrifoldeb ar ysgolion unigol

5.1 Ymddengys y bydd cryn dipyn o gyfrifoldeb yn cael ei drosglwyddo o ALI i ysgolion unigol yn sgil darpariaethau'r Bil newydd, gan gynnwys llunio, cynnal ac adolygu Cynlluniau Datblygu Unigol.

5.2 Mae cyfrifoldeb sylweddol gan ysgolion ar hyn o bryd ond o leiaf ble mae gan blentyn ddatganiad, mae eglurder bod y cyfrifoldeb terfynol yn gorwedd gyda'r ALI.

5.3 Nodwn fod angen mwy o eglurder o safbwyt ble byddai cyfrifoldeb yn gorwedd o fewn y gyfundrefn newydd a'r sefyllfa oedd hynny ble bydd y cyfrifoldeb yn cael ei basio o lefel ysgol unigol i lefel ALI e.e. achosion o anghenion dwys

5.4 Mae RhAG yn ymwybodol am nifer o ysgolion cyfrwng Cymraeg - yn arbennig mewn ardaloedd ble mae nifer llai o ysgolion Cymraeg - sy'n ysgwyddo cyfrifoldebau am ddysgwyr, nifer ohonynt gyda anghenion ychwanegol sydd yn medru bod yn ddwys, a hynny heb gefnogaeth llawn, yn wir mewn rhai achosion, lle mae lefel y gefnogaeth yn isel iawn. Profiad nifer o'r ysgolion hynny yw fod yn rhaid brwydro i gael unrhyw gefnogaeth - boed hynny'n ariannol, arbenigol neu ymarferol - er mwyn ymdopi gyda'r sefyllfa a'u galluogi i gynnig darpariaeth o'r ansawdd uchaf posib i'r dysgwr. Amlygir hynny ymhellach mewn ALI lle mae diffyg, bwlch neu absenoldeb o ran ymarferwyr ac arbenigwyr sy'n medru gweithredu trwy gyfrwng y Gymraeg.

5.5 Wrth gynllunio cyfundrefn a fydd yn rhoi mwy o gyfrifoldeb ar ysgolion, colegau a darparwyr unigol, mae angen mwy o fanylder ynghylch y materion canlynol:

- Clustnodi adnoddau cyllidol digonol

- Sicrhau lefelau staffio digonol
- Darparu cyngor a chefnogaeth arbenigol i ysgolion mewn da bryd
- Cynnal a darparu hyfforddiant pwrpasol a phriodol i aelodau staff, cyrff llywodraethu ayb

6. Meysydd eraill y dylid rhoi ystyriaeth iddynt

6.1 Credwn bod yr agweddu canlynol yn allweddol er mwyn cyrraedd y nod ac er mwyn grymuso dysgwyr a'u teuluoedd yn llawn. Rhaid wrth sicrhau bod y Gymraeg yn ganolog i'r trefniadau hyn a bod manylu ynghylch hynny ar wyneb y Bil, neu yn y Cod Ymarfer arfaethedig:

- Sefydlu ymagwediad rhyng-ddisgyblaethol ac amlasiantaethol o'r cychwyn cyntaf er mwyn cynllunio'r ddarpariaeth a monitro ac asesu cynnydd. Dylid sicrhau bod unrhyw drefn newydd h.y. y Cynlluniau Datblygu Unigol yn gosod yr iaith Gymraeg yn ystyriaeth ganolog ymhob agwedd o gynllunio, cyflwyno a chynllunio'r ddarpariaeth. Mae cynllunio integredig o safbwyt meysydd megis y Gwasanaeth Iechyd a Gofal Cymdeithasol yn gwbl greiddol yn hynny o beth.
- Trefniadau pontio gwell rhwng cyfnodau cyn-ysgol, addysg statudol ac 16+ er mwyn sicrhau darpariaeth di-dor.
- Mae angen parchu a gweithredu ar ddyheadau a dymuniad rhieni. Mae llais y plentyn hefyd yn gwbl greiddiol, er mwyn sicrhau lles a buddiannau gorau. Dyma ddylai lywio'r holl broses, yn hytrach nag argymhellion sy'n ymddangos yn llai trafferthus neu'n llai costus i'r awdurdod lleol.
- Dylid sicrhau trefniadau ariannu clir, effeithiol ac effeithlon. Sut mae cyllid ADY yn cael ei ddyrannu i ysgolion? Mae angen edrych ar sut caiff y cymorth ei gyflwyno ar lawr y dosbarth, boed hynny'n gefnogaeth un i un; cymorth i'r athro dosbarth ayb. Mae'n allweddol sicrhau bod ysgolion yn derbyn y lefel uchaf o gefnogaeth posib.
- Mae angen mynd i'r afael â'r diffyg deunydd ac adnoddau yn y maes, yn arbennig o safbwyt y Gymraeg. Mae angen gwneud

defnydd arloesol a blaengar o dechnoleg er mwyn hwyluso'r dysgu ar lawr y dosbarth.

- Rhannu arfer dda ac arbenigedd rhwng ysgolion, yn draws-sirol a rhanbarthol. Mae RhAG yn ymwybodol o achosion ble mae disgyblion o amrywiol gefndiroedd ieithyddol WEDI llwyddo yn y sector cyfrwng Cymraeg. Mae angen rhannu'r profiadau hynny a lledaenu'r gwersi a ddysgwyt yn eang.
- Mae angen ymchwil eang yn y maes, yn arbennig o safbwyt caffael iaith mewn sefyllfaoedd ble mae cefndir ieithyddol gymysg ar yr aelwyd neu ddim Cymraeg o gwbl.
- Rhaid wrth gyfathrebu clir a chadarn er mwyn osgoi gelynnaethu rhieni. Mae angen cefnogi gwybodaeth a rhieni ddim yn gwybod lle i droi am gyngor. Mae angen mwy o integreiddio a thynnu'r rhieni a'r teulu ar y daith.

7. Sylwadau ychwanegol

7.1 Profiadau rhieni:

Isod dymunwn gyfeirio at dri achos sydd wedi dod i sylw RhAG dros y blynnyddoedd diwethaf, sy'n darlunio'r heriau ymarferol hynny mae rhieni wedi gorfol eu hwynebu mewn sefyllfaoedd go iawn. Dylai unrhyw ddeddfwriaeth newydd fynd i'r afael â'r materion hyn.

Mae'r achosion yn ddi-enw a'r manylion personol wedi eu golygu.

Achos A: Plentyn yn mynchu Cylch Meithrin mewn ardal Dechrau'n Deg yn y de ddwyrain a'r fam yn ddi-Gymraeg. Mae problemau iaith a lleferydd gan y plentyn a rhai anghenion corfforol. Y fam yn awyddus iddo barhau gyda'i addysg trwy gyfrwng y Gymraeg a throsglwyddo i'r ysgol Gymraeg agosaf. Profodd gefnogaeth rhagorol yn y Cylch gan wneud cynnydd boddhaol. Roedd yn hapus ac yn fodlon ei fyd yno mewn amgylchedd Cymraeg a Chymreig. Yn ystod y broses o ymgeisio am le yn yr ysgol, argymhelliaid y sir oedd iddo fynd i ddosbarth arsylwi cyfrwng Saesneg am 6 mis gan nad oes dosbarth arsylwi cyfrwng Cymraeg yn y sir dan sylw. Rhoddodd y sir wybod na fyddent yn ariannu'r cymorth un i un iddo yn yr ysgol Gymraeg pe byddai'n

dewis gwrthod eu hargymelliad. Er bod yr ysgol Gymraeg gryn bellter i ffwrdd, roedd y fam yn awyddus i wneud yr aberth o'r daith yno ac yn ôl am ei bod yn angerddol dros roi addysg Gymraeg i'w plant, er bod darpariaeth cyfrwng Saesneg ar stepen drws yn fwy cyfleus.

Achos B: Plentyn gyda Dyslecsia ac elfennau o Dyspraxia, yn byw yng nghanolbarth Cymru ar aelwyd Gymraeg ei hiaith ac yn mynychu ffrwd Gymraeg mewn ysgol gynradd gyda ffrydiau Cymraeg a Saesneg cyfochrog. Bu pryder bron o'r cychwyn gan y rhieni ynglŷn â chynnydd a datblygiad eu plentyn, ond na chodwyd y mater yn ffurfiol gyda'r ysgol tan ddiwedd Blwyddyn 1. Erbyn hyn roedd yn amlwg ei fod yn tangyflawni yn ei waith darllen ac ysgrifennu a lefelau cyrhaeddiad addysgol yn sylweddol is na'i oedran. Roedd ei gyrhaeddiad yn sylweddol is trwy gyfrwng y Gymraeg. Roedd hynny'n annesboniadwy i'r rhieni o mai Cymraeg oedd iaith yr aelwyd a bod y plentyn mewn ffrwd Gymraeg.

Cymerodd dros 15 mis i gael cytundeb bod angen cymorth a chefnogaeth ychwanegol ar y plentyn. Y rhieni eu hunain aeth a'r plentyn i'w asesu yn annibynnol gan Uned Dyslecsia Prifysgol Bangor. Cafwyd cadarnhad bod ganddo Ddyslecsia ac elfennau o Dyspraxia. Ar gais y rhieni cafodd ei asesu gan Seicolegydd Addysg ond bu'n rhaid cynnal yr asesiad trwy gyfrwng y Saesneg gan nad oedd y Sir yn cyflogi ymarferwr oedd yn medru'r Gymraeg. Cynhaliwyd profion darllen trwy gyfrwng y Saesneg ond ni wnaethpwyd hynny yn y Gymraeg, er mai trwy gyfrwng y Gymraeg roedd y plentyn yn derbyn ei addysg. Cafwyd esboniad mai'r ysgol oedd yn gyfrifol am hynny, ond daeth yn amlwg nad oedd neb wedi cysylltu â hwy i drefnu bod hynny'n digwydd. P'r un bynnag doedd yr adnoddau priodol i gynnal y profion ddim gan yr ysgol; cynigiodd ysgol arall roi benthyg eu adnoddau hwy ond ni ddigwyddodd hynny.

Yn ystod ei gyfnod yn yr ysgol gynradd cafodd y plentyn amrywiaeth o gefnogaeth, gan gynnwys cymorth achlysuol gan gymhorthyydd dosbarth nad oedd yn medru siarad Cymraeg; ei ddysgu am dymor gan fyfyrwr ar leoliad yn yr ysgol ac yna gan athrawes newydd gymhwysol heb unrhyw brofiad o ddelio gyda Dyslecsia.

Profwyd methiant ar ran yr ysgol i drefnu cyfarfodydd amlasiantaeth rheolaidd er mwyn cydlynu'r gefnogaeth angenrheidiol. Trwy'r cyfan, y rhiant oedd yn rhagweithiol ac yn ysgogi popeth e.e. cyflwyno adnoddau cyfrwng Cymraeg ar gyfer Dyslecsia i'r ysgol gan nad oedd cyllid ganddynt i ariannu hynny a chyfeirio'r ysgol at SENCOs eraill gyda phrofiad o weithio yn y Gymraeg ond bu'r ysgol yn araf i wneud cyswllt os gwnaethpwyd o gwbl.

Dros gyfnod o bedair mlynedd bu'r rhieni'n brwydro i gael chwarae teg i'w plentyn. Yn gynyddol teimlwyd bod yr ysgol a'r awdurdod lleol wedi methu eu mab a hwythau. Yn groes i bob egwyddor ac argyhoeddiad personol, penderfynodd y teulu dynnu'r plentyn o'r ffrwd Gymraeg er mwyn iddo gael mynediad at y gefnogaeth a'r ddarpariaeth arbenigol yr oedd ei angen arno a hynny mewn darpariaeth cyfrwng Saesneg.

Achos C: Plentyn 5 oed yn rhannol fyddar (gwisgo teclynnau clyw) ac yn mynychu ysgol Gymraeg mewn sir yn y de ddwyrain. Roedd ei fam yn dysgu Cymraeg ac aelod arall o'r teulu (chwaer) hefyd yn siarad Cymraeg. Cafwyd pwysau gan y sir i'r rhiant symud y plentyn i uned gydag arbenigedd clyw yn y sector cyfrwng Saesneg. Roedd y plentyn yn fodlon iawn ei fyd yn yr ysgol a'r rhiant yn awyddus iddo gael parhau yno trwy dderbyn cymorth 1:1. Roedd amgylchiadau bregus gan y rhiant dan sylw a chafwyd bygythiad y byddai'r gwasanaethau cymdeithasol yn cael eu galw os na fyddai'r rhiant yn cydymffurfio. Roedd yr ysgol Gymraeg wedi datgan eu parodrwydd i wneud eu gorau dros y plentyn ac i gefnogi'r rhiant hyd eithaf eu gallu. Gan nad oedd Uned Fyddar cyfrwng Cymraeg na therapyddion iaith yn medru gweithio trwy gyfrwng y Gymraeg yn yr ardal, roedd y Sir yn benderfynol mai symud i'r sector cyfrwng Saesneg oedd orau i'r plentyn. Yn ystod ei flwyddyn gyntaf yn yr ysgol roedd ganddo gefnogaeth cymhorthyydd oedd yn medru arwyddo gan lwyddo i wneud cynnydd cadarnhaol. Gwnaeth yr ysgol gais am gyllid i ariannu cefnogaeth un i un ar gyfer y plentyn ond roedd y sir yn araf i ymateb ac yn amlwg yn anfodlon gweithredu'n gadarnhaol i'r perwyl hwnnw.

7.2 Mae'r achosion uchod yn profi un peth sylfaenol, sef bod pob plentyn yn unigryw a phob achos yn wahanol. Serch hynny, rhaid cael

gwaelodlin sy'n gosod yr egwyddor sylfaenol na ddylai dewis iaith fod yn ystyriaeth neu elfen sy'n arwain at ymdriniaeth anffafriol o'r plentyn. Mae'r achosion uchod yn amlygu'r angen dros gadarnhau hynny mewn deddfwriaeth.

8. Sylwadau i gloi

8.1 Mae'n ffaith anorfod, y bydd iaith yn her gydol oes i fwyafrif y plant a'r bobl ifanc sydd ag unrhyw fath o anhawster neu her addysgol, ond ni ddylai hynny olygu na ddylent gael y cyfle i ddysgu, profi a mwynhau'r iaith fel unrhyw un arall. Mae hefyd yn anochel y bydd rhai plant yn datblygu yn llai cyflym ac yn cymryd llawer mwy o amser i ddatblygu ond nid yw hynny'n reswm i beidio a chyflwyno'r iaith iddynt. Rheswm yw hynny dros roi'r gefnogaeth uchaf posib iddynt.

8.2 Rhaid gofyn, pa neges a ydym am ei roi i rieni? Ydy sefyllfa lle caiff plant eu hatal rhag dysgu iaith oherwydd anabledd neu anhawster dysgu yn dderbyniol? Ydy hynny'n sicrhau cynhwysiant gwirioneddol? Mae diwygio'r ddeddfwriaeth a chyflwyno Cod Ymarfer newydd arfaethedig yn cynnig cyfle amhrisiadwy i unioni'r anghydraddoldeb presennol a rhoi cyfleoedd cyfartal i bob plentyn yng Nghymru ddysgu'r iaith Gymraeg.

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Paediatric Speech and Language Therapy Department

Organisation (if applicable): Cardiff and vale University Health Board

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input checked="" type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The team have some concerns around lack of clarity around defining significant needs. There is concern that the number of children with additional needs will increase the SLTs work load. In particular attendance at IDP meetings. They are lengthy and time consuming and staff are unable to afford the time to attend these meetings with current resources. They do however feel that it is essential that they are there in order to be able to help with effective decision making. Without all of the professional there it is felt that they won't be as effective. There needs to be consideration made as to the effective sharing of information via electronic systems which would help the process. Are staff going to be expected to attend these meetings? The age range 0-25 is causing some concern, Who will be responsible for coordinating the whole process. There are already issues in the transitioning from children to adult services. Could consideration be given to parents having a choice as to who coordinates. Could a health professional take on an ALNCo role from 19-25. This has implications for resources, and extra staffing would be required.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The SLTs welcome the person centred approach and feel that it will deliver a

more holistic approach to a child's needs. Need clarity as to who the statutory partners are and who will have the legal responsibility. Need to ensure that the process is simpler than the current graduated response.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Having a person centred approach is positive. It is also felt that the approach will be more consistent rather than the variation within the current system.

It is not clear what happens to children who already have a statement.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Need clarity around all statutory partners.

Cardiff and Vale have excellent joint working with both LEAs with a shared referral pathway which we would be happy to share . We also have clear definitions of roles and responsibilities of specialist teachers and therapists which has given schools clarity. Training programmes e.g ELKLAN, TALKABOUT are being delivered jointly and all schools have screening assessments e.g. LanguageLink and SpeechLink which are funded by the local authority. Under the new legislation we would not want this good work to be dismantled all because of wrangling around continued financing.

As it is understood by the SLTs under this new legislation Education are required to make changes based on the SLTs recommendations so they cannot be dismissed or ignored. This is positive.

It is also thought to be positive that the child's needs can be reviewed and updated at any time rather than at an annual review.

It is also positive that there is a greater emphasis on schools rather than on the LEA.

The role of the medical lead needs greater thought. Is this an administrative role rather than clinical?

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Conflict resolution needs to be central and clear pathways for discussions to take place jointly are paramount. Ongoing services like Flying Start and families first are essential in early identification and building positive relationships

It is felt that it is positive that governing bodies of schools have to take more responsibility and that there are steps for mediation.

Greater clarity is required to manage what happens when a child comes into the area with recommendations that are not agreed locally.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

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Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

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Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

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Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Philippa Ford

Organisation (if applicable): The Chartered Society of Physiotherapy

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Special Educational Needs Co-ordinators	<input type="checkbox"/>
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	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other (Professional Body)	<input checked="" type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The CSP does agree that the definitions of ALN and ALP as set out in the draft Bill appropriately reflect the intended focus on educational needs.

The profession welcomes the extension to include those from 19 to 25 but highlights that there will be a cost implication. Currently, resources in health services for children and young people up to the age of 18 are available but after this age services are limited. A review of the resource implications would be required.

The CSP is unsure as to why support in Higher Education is not included? If support is to be extended into Further Education this should also be the case for Higher Education.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	✓	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The CSP has comments from members working in children and young people's services who are concerned that the legal framework is not sufficiently robust from a multiagency perspective. More clarification is required on the role and responsibilities of the Designated Medical/Clinical Officer and how this role will work alongside those supporting children and young people with ALN.

CSP members consider the draft Bill does not address some of the contentious issues currently experienced through the SEN system, particularly those in

relation to therapy provision.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The CSP notes the new duty to ‘have regard to’ the views, wishes and feelings of the child and the child’s parents or the young person, to them participating as fully as possible in decisions and being provided with information.

There is some concern around how the definition of a child S68 relates to this in that it implies that the views of parents of young people may be ignored. This could be at a critical stage in their development and could leave them disadvantaged.

The intent to involve children and young people is clear from the Government’s new approach but may require some amendment to ensure parental support is available as appropriate.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The CSP has received feedback from members who are concerned that the draft Bill will not provide an improvement in the way that agencies work together to deliver for children and young people with ALN.

There is a danger that agencies could continue to compartmentalise the child’s needs in relation to their own remit and priorities.

The CSP considers there will be a great deal of work required to facilitate collaboration between organisations under the new arrangements as a result of this piece of draft legislation. Resource will be required to deliver on this that has not, as yet, been identified.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The CSP applauds the draft Bill for trying to avoid disagreements, earlier disagreement resolution and consistent rights of appeal but is not wholly convinced that this will necessarily be the case as a result of the legislation.

Members highlight that there may be less disputes due to involvement of child and parent in developing the IDP but they question whether the framework will improve dispute resolution.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The supporting documentation is comprehensive.

Training programmes (for all partners – not just the education sector) will be required to successfully implement this draft Bill.

Joined up (collaborative) working requires IT systems that are joined up and that can share information safely and effectively.

More clarification is required on the financial implications of this piece of draft legislation.

It would be welcome to see more reference to the role of the third sector.

It would be welcome to see more emphasis on parental responsibility in helping to achieve agreed outcomes.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No further comments from the CSP.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Darrell Clarke

Organisation (if applicable):

Cwm Taf University Health Board

e-mail/telephone number:

darrell.clarke@wales.nhs.uk
01443 744841

Your address: Ynysmeurig House, Navigation Park,
Abercynon, Rhondda Cynon Taff, CF35 4SN

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to: e-mail:
SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	x
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- We would like to raise concerns that the term ALN and ALP reflect educational need rather than a focus on health needs.
- The draft code fails to state whether speech, language and communication difficulties are an education or health need. Previous case law states that this is an educational need.
- We wish to highlight that there will be significant implications for health with regards to the age range of 19-25 year old being extended into the health service? Currently there is not enough provision within the service, and for this to happen there would need to be significant resource allocation for this to be implemented effectively.
- There needs to be further clarification as to how the provision will be co-ordinated for this age group (19 – 25) and will there be an appointed medical officer for this client group. It is anticipated that the volume of work will significantly increase for the DMO and therefore additional resources and funding will be required for this post/service.
- It is not clear how the early year's model be co-ordinated and delivered?
- Adult Speech and language Therapy are structured around diagnostic teams providing for acquired rather than developmental communication difficulties. How would the service provide the input for 18-25 age range? The correct service, capacity and skills are not in existence to provide for this age range. This is also the case for Occupational and Physiotherapy services – where adult teams are in existence they are around diagnosis and in many situations there are not teams to transfer children to at 18.
- Who will be responsible for delivering the identified needs? Clarification around the recommendations for delivery will need to be clear to avoid conflict between agencies.
- There are significant implications for the Local Health Board and future financial budgets? Will new services be commissioned to meet the needs and demand of extending the age range?

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Clarity needs to be given on the thresholds of how IDP is issued; the legal framework from a multi agency perspective is not robust. The draft code does not clarify whether all IDP'S carry a statutory responsibility.
- Do IDP's set by maintained schools have the same statutory protection as IDP's set by Local Authorities? This has not been clarified within the Bill or draft code.
- It is not clear within the current bill how the ALP will be implemented and who the responsibility will be designated to.
- The draft Bill or code does not state when IDP's will be maintained and reviewed. Clarification is needed as to who will monitor the quality of IDP's.
- Clarification is needed to who the support panel will be and what members will be included within this process.
- Increased volume of work for health services is inevitable in preparing the implementation of ALP. Services will be disadvantaged and not meet health priorities or targets putting additional pressure on waiting lists.
- Within the current draft there is no reference to educational psychologist and how it will link to health. Educational Psychology services are key to these C&YP.
- Scoping exercises will need to be considered to look at training needs and up skilling of staff within education.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Diverting resources will have an implication on health services in

expanding the current age range. Concerns that this will have a detrimental effect on the services that are delivered to younger vulnerable children. This is going to introduce a significant amount of new work on existing services, services to XC&YP currently are delivered up to the 18th birthday with adult services thereafter, Health services are currently not designed to deliver up to 25 years, and this would also incorporate a new set of skills for supporting these older young people

- **The Draft bill and code identify voluntary third sector organisations as being key supporters for parents engaging in the ALN process. Is there sufficient capacity within these services to meet the potential demand of support?**
- **Third Sector organisations are key to supporting these families now and even more so in the future but there would also need to be new and additional investment in these support services to help them to provide effective and sustainable services.**
- **The draft code does clarify that funding for additional support from a non –education service, such as speech and language Therapy, should come from Health services if agreed by Health in the IDP.**

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- **Code within the bill needs to be clearer, it acknowledges that LHB'S can decline to sign up to the health provision in the IDP where the need is felt not to be a priority for health.**
- **Issues that the bill does not address the fact that agencies will continue to compartmentalise the childs needs in relation to their own priorities and remit.**
- **Pooled resources must be a priority for this Bill in order for the design to meet ALN focusing on each individual needs of the child. Lack of clarity over responsibility for funding has previously been and continues to be a barrier to agencies working together.**
- **If the responsibility for speech, language and communication difficulties and Occupational Therapy are designated to both health and education. How will the agencies share this responsibility? This needs to be clarified within the Bill.**
- **Multi-agency working can be difficult due to the barriers within current IT systems. Welsh Government plans for shared information systems between Health and Social Services but do not include Education.**

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

- Health are actively involved and called to educational tribunals and there is huge concern around that process. The potential of health resources being involved in a greater number of tribunals are of significant concern.
- All parties should engage in resolution before it gets to the stage of tribunal. The Draft Bill and code state that La's must make arrangements to avoid disagreements. If La's are responsible for these arrangements this may be perceived by parents as not being objective. This could lead to parents not engaging in this process.
- The current process of Tribunal should be revised and LA's should not be responsible for monitoring the quality of arrangements.
- The existing panels of tribunal consist of educational representatives and do not reflect skill mix or the expertise of health members.
- The Bill is not clear on how disputes will be improved compared with existing legislation.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The code within the bill is not clear on who will be responsible for drawing up the IDP. Opportunities to feedback and comment on the draft code as a separate document will be ensuring a quality document which is fit for purpose.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The UHB welcomes the opportunity to respond to this consultation document, we do hope that the concerns highlighted within our response are considered as we do have significant concerns as to how the implementation of the BILL and code will be delivered effectively without further development and clarity.

The training and development of health professionals will need to be outlined and awareness training will need to be a priority. The Bill outlines that the DMO will attend a one day training programme but does not outline further training for other key professionals. The bill underestimates the role of the DMO and we feel underestimated the resources needed to develop this role.

Clarification is needed to who is going to assess these children and young people and what the assessment process will entail?

What are the legal implications on IDP in delivering these provisions?

When health identify children's needs, how do we provide the recommendations and what are the legal implications on IDP in delivering these provisions?

With a focus on Health Boards agreeing what is required from their services and being financially responsible to provide, there is a risk that services are forced to write IDP's based on service capacity rather than individual need.

Summary of the issues ALN will cause for Health Services:

- >Increased demand on current services**
- >Capacity within delivery of services is already an issue, how will health meet the demand?**
- >Current services do not provide input to 18-25.**
- >Insufficient staffing levels to cope with the potential increase in demand.**
- >Training needs to be identified with regards to the broadened age range.**

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Response to the ALN bill consultation –
Independent Special Educational Needs Advocate

Also the parent of three children with SEN two of whom have/have previously had statements and all are of an age where they could fall within the remit of the ALN Needs Bill

I write both as a parent of children with severe and complex ALN and an independent advocate for children with Special Educational needs, trained by IPSEA and acting for parents representing them at the SEN tribunal for wales. The proposed changes have been billed as “statements or something better” however I do not believe that they will make things better for children who have additional learning needs.

Firstly the intention to include all children with any sort of learning need increasing the numbers vastly without any real additional budget will lead to a watering down of support for those who need the most support as focus moves from those with the most severe needs to almost ¼ of all children in schools in wales. This will likely mean a removal of targeted support for those children who have severe and complex needs under the statementing system.

Under the proposed legislation much of the ‘law’ is not actually law, ratified and examined closely at parliamentary/assembly scrutiny level rather it is contained within a code of practice which can be changed periodically by the assembly as they see fit without the same level of scrutiny or process. This cannot possibly be seen as fair equitable or legal if the ‘law’ can be changed without that acute scrutiny in response to any number of outside factors. It will lead to considerable confusion and a lack of effectiveness.

There is currently a framework, set out in law for the assessment of children who have the most severe SEN, under statutory assessment parents have a legal right to request assessments, a timescale for those to be carried out and the ability to ask the tribunal to order their child be assessed if there is disagreement.

Under the new legislation there appears to be absolutely no legal right whatsoever to any sort of assessment. I asked at the Cardiff consultation why this was and received absolutely no reassurance from the panel that schools would spend money on assessment of children nor that there would be any legal right to an assessment. The answer given was “we are not doing away with an assessment, schools can assess if they wish”

Therefore I can only deduce that what is intended by the Welsh Assembly Government that it is the “statutory” aspect of the assessment is to be removed – ie the legal requirement to assess the legal framework to outline how assessments should happen and when.

Once statutory assessment is removed in practice only those children with the most obvious needs and families with sufficient finances will be able to access assessments.

If Parents believe that their child has additional needs and the school either does not agree or have sufficient funding to provide assessments unless they are able to access legal aid they will be forced to fund assessments themselves.

I believe the removal of statutory assessment removes parents' rights and will lead to many children being under identified and under-assessed. Too many children at present miss out on vital assessments unless their parents can afford to pay for them. I experienced this myself when my children both fell further and further behind in literacy and numeracy but school would not put them forward for assessment "because there are children who need it more" yet we had no knowledge of whether this was true due to the confidential nature of the situation we could not know what these children's needs were nor whether they even existed. I estimate I have been forced to spend upwards of £10,000 on various private reports for my children and without them the local authority would have under assessed and refused to accept my children's SEN. I have had to fight tooth and nail to secure provision for them outside of mainstream where they failed.

When I apply my own experience to the situation which will exist once statutory assessment and the ALN bill is enacted, if it is enacted as set out at present I cannot fathom, even with extensive experience and professional training as an advocate how parents will navigate a new system with no right to assessment or appeal against a refusal to assess a child's needs. Schools will be likely to face extensive legal action from the parents who are able to fund such action against their Children's School which was also voiced by school staff at the consultation meetings. Yes a parent can appeal to the local authority for them to take on responsibility for producing an IDP however staff appeared to be concerned about the effect on them if they 'missed' a child and I agree, this is a realistic possibility with children who have autistic spectrum disorders and mental health issues if the IDP produced was insufficient to meet need since the vast majority of mainstream school staff do not have sufficient training or expertise to accurately identify and decide on provision for children with complex needs.

At present the separation of Local Authorities from schools in terms of assessment for the most severe problems does prevent some conflict from arising with children's schools when parents disagree with the decisions made there is often difficulty and upset however the schools are often not 'blamed' when the LA will not provide support and it is necessary to take a case to tribunal, where the outcome is successful in the parents favour then the school often welcome this.

Once it is handed over to schools to make more and more decisions about support it is likely to lead to a fast deterioration of relations between parents and school staff if the parent asks the local authority to reconsider decisions made by the school, especially where children also have behavioural and other problems when they are requiring lots of support which impacts upon a school's budget and school staff are already under stress. I am not convinced that making the school the "first level" and the local authority the "next level" of

bureaucracy preventing children from accessing support will lead to positive outcomes for children.

It is also important to highlight that since the UK government severely restricted legal aid there are no legal aid providers in Wales dealing with Education matters. Legal aid is now available for education via two London based agencies. This restricts parents and young peoples ability to challenge decisions made about education and certainly there is no possibility of a face to face consultation with a legal adviser if you live in Wales unless you can afford to pay for advice.

SNAP Cymru exists however it cannot be described as independent- although it is described as such by them, parents do not trust the advice given and often accounts of the ineffectiveness of advice and support offered by SNAP Cymru are retold to me with comments such as "They aren't independent they side with the local authority" This is because they are funded by local authorities and therefore cannot be said to be independent and truly represent the parents interests. To be independent an organisation needs to be completely removed in all aspects from those making the decisions concerning children. This is not the case. SNAP CYMRU staff sit on placement and provision panels and are at the heart of decisions concerning children "from the inside" presenting a conflict of interest which affects decisions concerning children.

I was appalled therefore to discover that the Welsh Assembly intend to remove parents from the process affecting their childrens educational needs and provision when they turn 16. Many of these young people are able to contribute well to decisions affecting them and state their views however they are uniquely vulnerable due to their additional needs meaning they require support to do so. Parents are also usually the sole carers for these young people and have an absolute right to be consulted and informed about decisions affecting their children. Under the proposed ALN bill parents will not even be informed about decisions affecting their child.

The Majority of parents, even when well educated and capable find it very difficult to challenge decisions made by local authorities and schools about their children, I fail to understand how any young person will be able to effectively challenge any decision made by a local authority when it is not in their best interests if their parents have no right to be informed or represent their child. I also believe there may be human rights implications in respect of Article 8 in respect to private and family life, home and correspondence and also Article 2, schedule 1 a right to education under these plans to remove the involvement of parents routinely. Young people should be able to opt to undertake these things themselves under a system of informed consent for those young people who are able to handle their own affairs. Unless they do this I believe it should be routine for parents to be informed of any decision involving a child or young person who is under their care and living in their home.

I raised this at the Question and Answer session at the Cardiff consultation session and heard what I consider to be an incredibly discriminatory statement from the speaker. “we want to make children and young people the same as everyone else”! Young people with ALN are not the same as ‘everyone else’ in many respects and Equality is not achieved by removing the involvement of those who can most successfully and effectively advocate for them nor by creating an environment where they are automatically presumed to be able to handle their own affairs in respect of their education regardless of needs and disability once they reach the age of 16.

I welcome the extension of the right to ALN provision up to the age of 25 however I believe that the lack of provision in alternative education settings such as for apprentices and vocational courses unless delivered in a further education college is a mistake and it will leave a big gap for young people who could benefit if provision covered those environments, especially when those with Additional Learning needs may be best placed in a work based placement or alternative educational setting. It is also a shame that an IDP will not be carried through to university settings where their introduction could lead to far more effective support for learners than the current situation where the level of support available varies by institution.

Of acute concern to me is the fact the Home educated children and those Educated Otherwise than at school (EOTAS- in hospital schools or via online schooling for example) have been omitted from this legislation. All the focus is placed firmly on schools to identify and deliver provision to children with ALN however not all children attend school. The vast majority of children who are educated otherwise than at school (Both home educated and EOTAS) are unable to attend any school and have often been repeatedly failed by their local mainstream school (often more than one school) and yet their needs appear to have not been included anywhere within this bill. It should be noted that one of the reasons to remove an IDP from a child is “where the child is not engaging in education” young people often fail to engage in education where the provision/placement does not meet their needs. If young people are not engaging in education and have had an IDP it must not be routinely ceased unless there is some plan for the young person’s next steps and an IDP should remain until the appropriate placement or provision has been secured for them. It should not be acceptable for young people to ‘drop off the radar’ and for schools and local authorities to fail them educationally and then cease any means of support for them under an IDP if they are unable to attend an educational establishment. The IDP should be the individuals and not dependent on a placements success, this is particularly important where the young person is aged 16 or over and may need high levels of support to be able to successfully attend school or college as they gain skills leading to independence which may be lost without support.

Of acute concern to me is the issue of Health care provision and therapies. Case Law (X&X –v- Caerphilly BC[2004] EWHC 2140, [2005] ELR 78.) has dictated that speech therapy should be considered educational provision unless there is a very good reason for not doing so. Therefore stating that Health Authorities must provide only what they agree to provide means that it

is likely that within a very short space of time there will be judicial review brought against this part of the legislation which is highly unlikely to fail in light of previous precedent.

In my work I am now routinely taking on cases where health authorities are assessing children and issuing reports stating children do not need therapies , even extremely disabled children such as those with no speech are being assessed as having no speech therapy needs. Parents are then having to engage my services to help them fight the decision not to include therapy in statements this obviously incurs high costs and involves them having to spend several thousand pounds on independent reports before approaching the tribunal where the decision not to include nor specify therapies are routinely overturned by the SENTW tribunal and Local authorities are being ordered to provide specified and quantified therapies in statements. I have been told by one Occupational Therapist employed by the NHS “we are not allowed to specify what a child needs” This leads me to believe that there is a motivation by health and education authorities due to limited budgets to work together to routinely deny children therapies which may have a crucial impact upon their education. My own child also received inadequate therapy provision from 0-12 before I managed to prove in a SENTW tribunal that he needed a very high level of therapeutic input which was then provided which met his needs. That level was weekly. I am yet to see any report by anyone employed within any local authority in south wales or any health board who would specify that level of provision yet that was what was needed as decided by SENTW.

Under these plans as they stand parents would have no right to pursue their child's right to therapies via tribunal and these could be removed when the local health board refused to provide them any longer, their recourse would be via the health authorities complaints procedures which can take many years. Would the Welsh Assembly then intend for responsibility to then fall to the local authority to fund this as per X&X –v- Caerphilly BC[2004] EWHC 2140, [2005] ELR 78.?

For the benefit of parents, children, schools and local authorities therapies and health provision which is required at school must be challengeable in the SEN Tribunal for Wales (who already engage the services of a medical professional to sit on panels where applicable) and enforceable under in law when they are not provided. I do not believe it is reasonable for Local Educational Authorities alone to have to foot the bill for therapies when health boards write that therapy is not needed and it is then ordered by the Tribunal after expensive legal battles – of course this is the situation at present and I can only envisage this will get far more prevalent and confusing should the bill be enacted as it is. Health Boards must be held legally accountable for providing essential therapies. Regardless of the age of the child or young person, families should not be passed around departments and budgetary considerations should be very much a secondary consideration. Children must be able to access the therapies needed without becoming caught in arguments over funding between health and local authorities.

I am deeply concerned about this proposed legislation. I believe that the system that has been enacted in England the Children and Families Bill 2014 would be far preferable to what has been proposed for wales and I believe the Welsh Assembly government is, at present intending to enact legislation for the sake of having different legislation to England rather than because it will meet the needs of children in wales more effectively.

I was also deeply concerned that the consultation meeting I attended appeared to be for the purposes of telling those attending how things will be when the legislation is enacted as set out at present and dismissing concerns raised seemed to be the intention of the panel rather than listening to the concerns of those attending. The Oxford English Dictionary sets out the meaning of consultation as “the process of discussing something with someone in order to get their advice or opinion about it” I do hope that the Welsh Assembly team take on board the very many concerns that were raised at the consultation meetings by a very wide range of professionals, parents and those involved rather than already having decided the legislation and framework they desire and pushing forward with it, dismissing those who actually work with those affected and are affected personally by Additional Learning needs. There is no point in making poor law, it will be disastrous for children and young people unless good law is created and enacted which is why I have taken time to respond.

If we are to have “statements OR something better” which is a laudable intention then this bill needs substantial amendment and improvement.

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: **Dave Williams**

Organisation (if applicable): **Aneurin Bevan University Health Board Children's services**

e-mail/telephone number:

Your address

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
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	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other –	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	X	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The current terminology in the legislation to define ALN as those with difficulties ‘significantly greater than the majority’ would equate to 49% of the child population. It does not distinguish between those learning needs as a result of the child’s competencies and difficulties and those that are a result of his education environment and the quality of his teaching e.g. more structured school environments are more suitable for children who are easily distracted or struggle with social interactions. This very broad ALN definition (significantly greater than the majority) gives lack of clarity on the expectations on health to support this group of children from both education and parents. Health services currently plan for about 2.5 % of the population which corresponds to -2SD below the norm (a definition of based on standard deviation from the norm in a normal distribution curve for the population), and this supports planning for and targeting of the provision to those most in need. This is in keeping with Prudent healthcare principles.

The definitions are even less clear when applied to children 0-5 and in the 16-25 age range.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	X	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We do not agree that the draft Bill creates a robust legal framework in respect of IDPs.

What is being proposed is less robust than the existing statementing process and less likely to assure parents. The legal status of the IDP is not clear from the draft Bill. The graduated response/stages within existing statements is clearer, although it does cause an overreliance on diagnosis and the potential for direct therapy to be overprescribed. We acknowledge that there is currently less focus on achievement of the required outcomes for the child and a greater focus on securing input and resources and holding on to them. We value this Bill's attempt to move towards an outcomes focus.

There is a potential for a huge increase in work in the preparation of IDPs on the health agency. Within the existing statementing system it is clear that at stage 3 outside agencies such as health will become involved when attempts to remediate the child's difficulties have already been implemented by education. This clarity and stepped response has now been removed in the draft Bill. This potentially will result in an increase in bureaucratic process on health.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst the Bill is full of aspirational language there is little to give confidence that this will be ensured. Health Boards already have a duty to identify the needs of their population and provide patient centred, evidence based prudent care and interventions and are already outcome not input focussed without further legislation.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Without legislation, the ISCAN model in Caerphilly is a good example of collaboration. The Health Board would welcome a single plan for children

which the current description of the IDP does not fulfil. Without clarity about responsibility, which previously clearly lay with the LEA, there is a potential for increased conflict rather than increased collaboration.

Issues such as provision of equipment and responsibility for filling areas of unmet needs will be particularly challenging given the lack of clarity regarding responsibility.

Estyn currently make it clear that schools have responsibility for basic health and mental health needs reinforced by the current Donaldson report. There is concern from health that this duty will be discharged by passing responsibility to the Health Boards and its' professionals. The draft Bill fails to make this clear and give reassurance.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree		Disagree	x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

As above we are unclear how disputes will be resolved in respect of lack of healthcare (specifically therapy and CAMHS) provision.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

See comments above. Additionally we disagree with the cost neutral assumption from the impact assessment, and believe there is a real risk of increased bureaucracy on health. The Mental Health Measure (Wales) specifies the statementing process as an indicator for designation of care coordinator from the education agency. The removal of this undermines current Welsh legislation in this respect

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Please supply additional support for both agencies and parents during implementation.

The Bill potentially confuses parent's expectation of provision from 16-25 yrs, failing to distinguish clearly the entitlement of those whose pathway takes them to further education (and therefore be entitled to ALN support) and those who leave school who will not be entitled to education per se. Parents are interpreting this as an entitlement to further education per se, rather than ALN support to those who will be in further education.

The Designated medical or clinical officer role is unworkable if it is applied to the expanded number of children designated as ALN under this Bill. It will be impossible for any individual to understand the therapy , paediatric, mental health and primary care needs of the this potentially huge group (this would be 60,000 children in ABUHB).

For the majority of children the GP is the most informed professional of a child's health care needs. However, they are extremely unlikely to be actively involved in the care of the vast majority, nor have the capacity to act in this role.

For the most complex children the best person to contact would be the case coordinator where this exists. When GPs and community paediatrics face significant shortfalls in recruitment across the UK the proposal is undeliverable.

If the desire is a coordinator, administrator role, there needs to be a rethink of the title and consideration of the funding and additional processes to be added onto the health agency to manage, monitor and report.

There is a need for a strategic planning lead from health to plan the future need and future service development on a multi agency basis.

We agree there may be a potential for a reduction in bureaucracy and spend in the education agency because IDPs will be done locally by schools but we are concerned there will a shift of cost to health.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb

i'r Eich enw: Haf Eleri Williams

ymgyngħoriat

Sefydlriad (os yw'n berthnasol): Ysgol Deganwy

e-bost / rhif ffôn:

Eich cyfeiriad:

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol	<input type="checkbox"/>
	Arbennig	<input type="checkbox"/>
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau Iechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>
	Arall	<input type="checkbox"/>

Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Yr wyf yn cytuno gyda'r diffiniadau ond yn bryderus iawn am y diffyg cyllid. Nid oes son am gyllid ychwanegol. Yn hytrach, mae toriadau i gyllidebau Awdurdodau Lleol ac ysgolion. Mae'r toriadau yma wedi cael effaith niweidiol ar staff canolog, arbenigol. Wrth ymestyn yr ystod oedran o 0-25 bydd mwy o ofyn ar adnoddau a staff arbenigol. Yn sicr nid oes gan ysgolion y cyllid na'r arbenigedd i wneud hyn.

Hefyd, dylid gweithredu'r cynigion yn gyfartal trwy gyfrwng y Gymraeg a'r Saesneg, yn unol â dymuniad y plentyn, person ifanc a/neu riant.

Mae diffygion sylweddol iawn yn y ddarpariaeth cyfrwng Cymraeg ar gyfer plant a phobl ifanc gydag ADY ar hyn o bryd, a hynny'n aml oherwydd diffyg capaciti/arbenigedd o fewn y gweithluoedd perthnasol. Bydd ymestyn yr ystod oedran yn debygol o waethygwr sefyllfa, er ei fod i'w groesawu mewn egwyddor.

Rhaid cofio, ymhlieth y grŵp oedran cyn-ysgol yn arbennig, bod plant sy'n uniaith Gymraeg. Byddai unrhyw asesiad o blentyn uniaith, neu unrhyw ddarpariaeth ar ei gyfer yn gorfol bod yn y Gymraeg i fod yn ystyrlon.

Nid oes sylw dyledus wedi'i roi i'r mater ganolog hwn yn y Bil ei hun nac yn y dogfennau cefnogol.

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Dydi'r ddogfen ddim yn nodi'n glir pa ddisgyblion fydd angen 'IDP'-y rhai GY a GY+ neu y rhai GY+ a rhai datganiad yn unig. Ar hyn o bryd mae gan Ysgol Deganwy 78 o ddisgyblion GY a GY+. Mae fy nghydlynnydd ADY yn cael un bore yr wythnos i gadw ar ben y gwaith papur presennol (cymorthyydion sydd yn gweithio gyda'r plant). Buasai rhaid i mi ei rhyddhau am gyfnodau hirach os bydd disgwyl iddi wneud 'IDP' ar gyfer pob un o'r 78 disgybl. Hefyd, bydd angen mwy o amser i gynnal yr adolygiadau. Ar hyn o bryd 2 adolygiad sydd rhaid gwneud. Mae'r drefn newydd i'w groesawu, ond yn amhosib os bydd angen trefnu 'pupil centred consultation' gyda phawb sydd ar y gofrestr ADY. Mae yma bryderon amser, adnoddau a lle addas i'w cynnal yn yr ysgol. Mae'n rhaid i'r ddogfen nodi'n gliriach pa ddisgyblion sydd angen 'IDP' a 'Pupil Centred Consultation', neu mi fydd anghysondeb ar draws i Siroedd.

Lefel y cyfrifoldeb ar ysgolion

Yn sgil dileu Datganiadau, mae'n ymddangos bod cryn dipyn o gyfrifoldeb yn cael ei drosglwyddo o Awdurdodau Lleol i ysgolion unigol, o ran gwneud penderfyniadau (*determinations*) ac o ran llunio a chynnal cynlluniau datblygu unigol.

Os yw hynny'n gywir, mae angen cynllunio ar gyfer y sgil-effeithiau yn arbennig felly yn nhermau:

- neilltuo adnoddau cyllidebol digonol
- sicrhau lefelau staffio digonol
- darparu lefel priodol ac amserol o ran hyfforddiant (i gyrrf llywodraethu, arweinwyr ysgol, cydlynwyr ADY, athrawon a chynorthwywyr dysgu)
- sicrhau bod cyngor arbenigol amserol ar gael i ysgolion

Mae'r straen ar ysgolion bach, ble mae lefelau staffio'n isel iawn – ond eto ble mae'r ganran o blant ag ADY yn gallu bod yn uchel - yn debygol o fod yn sylweddol iawn.

Lefel y cyfrifoldeb a'r llwyth gwaith i'r Cydlynnydd ADY

Mae'r disgrifiad o'rôlei a chyfrifoldebau'r Cydlynnydd yn y Cod drafft i'w groesawu, a chytunwn y dylai'r Cydlynnydd fod yn aelod o'r Uwch Dîm Rheoli.

Mae'n edrych yn glir o ddarllen y disgrifiad o'r rôlei a'r cyfrifoldebau mai swydd llawn amser yw hon. Anodd iawn yw ceisio dychmygu ymgymryd â dyletswyddau o'r fath ochr yn ochr ag amserlen dysgu a hynny yn sgil:

- y llwyth gwaith sylweddol iawn (gan gynnwys materion rheolaethol)
- y lefel o arbenigedd sydd ei angen
- yr angen am hyblygrwydd o ran amser i allu cwrdd ag amrywiaeth o randdeiliaid yn ystod y diwrnod gwaith

Dylid dweud hynny'n glir yn y Cod.

Yn yr achosion hynny ble nad yw'n ymarferol i apwyntio un person llawn amser, er enghraift, mewn ysgolion bach, dylid nodi'r posibilrwydd o benodi Cydlynnydd ADY llawn amser ar gyfer clwstwr o ysgolion.

Anghenion Hyfforddiant a Chymwysterau

Yn ychwanegol at yr angen am hyfforddiant ymhliith staff presennol ysgolion, Colegau Addysg Bellach ac Awdurdodau Lleol, bydd angen cynllunio ar gyfer cynyddu'r ymwybyddiaeth a'r ddealltwriaeth o faterion ADY ymhliith y gweithlu dysgu cyfan.

Y Gymraeg

O ran creu fframwaith cyfreithiol cadarn, nid oes unrhyw gyfeiriad yn y Bil at egwyddorion Mesur y Gymraeg (2011) sy'n datgan na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg.

Dylai'r broses gynllunio, ynghyd â phob cam arall yn y broses, fod ar gael drwy gyfrwng y Gymraeg neu'r Saesneg yn ôl dewis iaith y plentyn/person ifanc a/neu rhieni. Dylai'r egwyddor honno gael ei nodi'r glir ar wyneb y Mesur fel gofyniad statudol.

Os nad oes modd i'r broses gynllunio ddigwydd yn newis iaith y plentyn/person ifanc a/neu rhieni, mae peryg eu dieithrio o'r cychwyn. Gellid dadlau yn ogystal bod peryg o gamwahaniaethu.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Cytuno gyda phlant GY+ a rhai ar ddatganiad. Ond anghytuno os bydd rhaid cynnwys y plant GY. Mae cymaint mwy o blant GY yn yr ysgol. Mi fuasai'n holol afresymol cynnal cyfarfodydd gyda'r holl asiantaethau eraill-dim digon amser, tynnau staff fel therapyddion iaith oddi wrth y plant oherwydd bod rhaid iddynt fyny chu cyfarfodydd.

Mae'n bosib bod y Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo, ond nid oes unrhyw sicrwydd bod hynny'n wir mewn perthynas â phlant a phobl ifanc sydd am gyfathrebu drwy gyfrwng y Gymraeg. Yn wir, mae risg gwirioneddol o wahaniaethu yn eu herbyn.

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Bydd rhaid i asiantaethau fod yn hyblyg pan yn trefnu cyfarfodydd. Bydd rhaid i'r cyfarfodydd gael eu cynnal o fewn diwrnod ysgol, cynyddu llwyth gwaith y cydlynnydd ADY. Diffyg lle addas mewn ysgolion i gynnal y cyfarfodydd. Os bydd rhaid cynnal cyfarfodydd gyda'r plant GY rhaid cysidro os bydd gan asiantaethau fel yr awdurdod iechyd, ddigon o staff i'w mynchy i gyd, dros ysgolion yr awdurdod.

Mae'r pwyslais ar gydweithio i'w groesawu – rhaid osgoi dyblygu diangen a sicrhau cyd-drafodaeth rhwng yr arbenigwyr yn yr amrywiol meysydd er mwyn cyllunio a darparu'n effeithiol ar gyfer y plant a phobl ifanc dan sylw.

Fodd bynnag, mae rhai ystyriaethau pwysig.

Amser a chapasiti: mae angen amser sylwedol ar gyfer cydlynnyr'r math hwn o gydweithio, ac mae angen i'r person â'r cyfrifoldeb (fel arfer y Cydlynnydd ADY) fod ar gael am gyfnodau drwy gydol y diwrnod gwaith. Nid yw hyn yn cydweddu ag amserlen ddysgu.

Iaith: mae gwaith aml-asiantaeth yn aml iawn yn golygu bod popeth yn digwydd yn Saesneg. Mae'r Byrddau lechyd yn arbennig yn dueddol o fynnu derbyn pob dogfennaeth yn Saesneg, neu'n bygwth y bydd oedi yn y broses i ganiatáu am gyfieithu.

Mae'r math hon o gyfundrefn yn gorfodi pobl i ddewis rhwng derbyn gwasanaeth prydion ar y naill law, neu wasanaeth Gymraeg ar y llall. Mae'r holl broses yn creu anghymhelliaid cryf iawn rhag defnyddio'r Gymraeg. Dylid cynnwys dyletswydd ar wyneb y Mesur ar yr asiantaethau i gydweithio a rhannu gwybodaeth yn y Gymraeg os mai dyna dymuniad y plentyn/person ifanc/rhieni.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawlau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	X	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Bydd cynnydd yn y nifer o rieni'n apelio. Bydd hyn yn cael effaith sylwedol ar gyllid ysgolion a'r awdurdod lleol.

Dylid cyfeirio'n benodol at yr hawl i gael ymwneud â phrosesau datrys anghydfodau ac apeliadau at y Tribiwnlys drwy gyfrwng y Gymraeg.

Mae cyfeiriadau yn y Cod drafft at '*suitable format*' a '*plain language*', ond dim cyfeiriad at gyfrwng iaith y prosesau.

Cwestiwn 6 – Dogfennau ategol

A fydd ech cystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Mae'r ddogfen yn nodi y bydd angen adolygu'r 'IDP' bob 12 mis. Fel ysgol, yr ydym yn adolygu targedau'r plant o leiaf 2 waith y flwyddyn.

Mae angen bod yn fwy clir pwy all fod yn 'advocate'. Nid yw'n deg gofyn i ysgol wneud hyn.

Nid oes unrhyw un o'r dogfennau ategol yn cydnabod bod problemau systemig o ran sicrhau darpariaeth anghenion dysgu ychwanegol yn y Gymraeg. Nid ydynt ychwaith yn cydnabod pwysigrwydd sicrhau bod cymaint â phosib o'r prosesau yn digwydd drwy gyfrwng y Gymraeg yn unol â dewis iaith plant, pobl ifanc a/neu rieni. Nid ydynt felly yn cynnig unrhyw ffordd o fynd i'r afael â'r anawsterau a'r gwendidau hyn.

O ran y Cod, mae'r cyfeiriad ym mharagraff 14 at Safonau'r Gymraeg yn annigonol. Er bod Awdurdodau Lleol yn dod dan gwmpas y Safonau, nid yw'r safonau'n gyson o un Awdurdod i'r llall ac felly ni fyddant yn creu darpariaeth gyson ledled Cymru o ran y gyfundrefn ADY. Yn bwysicach byth, nid yw ysgolion yn ddarostyngedig i'r Safonau.

Dylai'r Cod nodi gofynion mewn perthynas â'r Gymraeg yn y meysydd canlynol:

- yr hawl i gael darpariaeth Gymraeg ac ymdrin â'r prosesau drwy gyfrwng y Gymraeg, gan gynnwys prosesau aml-asiantaeth
- parchu dewis iaith y plant a'u rhieni, a phobl ifanc wrth annog cyfranogiad yn y broses, a chamau ymarferol y dylid eu cymryd i hwyluso hynny
- darparu'r wybodaeth a chyngor y cyfeirir atynt yn y Gymraeg –ar bapur, yn electronaidd neu ar lafar
- nodi (a) cyfrwng iaith addysg y plentyn/person ifanc (b) dewis iaith cyfathrebu'r plentyn/person ifanc a'i rieni o ran cynnwys gorfodol y Cynlluniau Datblygu Unigol
- yr hawl i gael ymwneud â phrosesau datrys anghydfodau ac apeliadau at y Tribiwnlys drwy gyfrwng y Gymraeg, gan gynnwys eiriolaeth annibynnol

Dylai'r rhain oll fod yn ofyniadau gorfodol yn y Cod Ymarfer fel bod eglurder ynghylch y cyfrifoldebau, y dyletswyddau a'r hawliau. Yn dilyn egwyddor sylfaenol Mesur y Gymraeg (Cymru) 2011 na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg, ni ddylai darparu neu weinyddu'r broses yn y Gymraeg olygu oedi, na gwasanaeth israddol mewn unrhyw ffordd i'r defnyddwyr.

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanyst.

Yr wyf yn croesawu un ddogfen ar gyfer pob asiantaeth. Fodd bynnag mae gennys bryderon ynghylch y canlynol: -
Cynyddu llwyth gwaith cydlynwyr anghenion dysgu ychwanegol
Diffyg cyllid
Ansicrwydd ynghylch pa ddisyblion dylai gael 'Pupil Centred Profiles'.
Dwi'n cymeryd mai'r ALI fydd yn adolygu'r holl 'IDPs', ond a fydd digon o staff i wneud hyn?
Aneglur beth yw'r gwahaniaeth rhwng bod yn 'advocate' a bod yn 'case friend'. A oes angen y ddau?
A fydd cyllid ar gyfer hyfforddi pawb-yr athrawon a'r gweithwyr yn yr asiantaethau.
Pryderu'n fawr am diffyg darpariaeth yn y Gymraeg.
Bydd llai o gefnogaeth i ysgolion.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrywd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Vanessa Griffin

Organisation (if applicable): Newport City Council

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input checked="" type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input checked="" type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>

	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The definitions of ALN and the ALP are worded quite loosely and will unfortunately be open to interpretation as much as the current definition. Through the use of the terminology ‘learning need’, it may be felt by some groups that children and young people with a physical, sensory, behavioural, emotional difficulty etc will not be considered fully .

The intention is for the ‘school or FEI to determine whether the child or young person has ALN’ which is appropriate as long as the preparation and reviewing is completed through a person centred process and that all parties participate fully. There will be a need for guidance, possibly at a local level (?) to support schools with their decisions on what constitutes an ALN and what level of complexity the IDP should have. There will have to be a moderation process so that schools have a commonality in their identification. It would be hoped of course that it would be reviews that are taking place for the young person in FEI and not identification, as the ALN should have been identified and supported a long time before the FEI stage.

The requirement for local authorities to secure specialist post-16 education or training for a child or young person where the IDP indicates that this is necessary to meet their needs, may cause some difficulty due to the lack of

availability of specialised provisions and funding to enable further/continued education up to 25 years.

Likewise, the pre school provision will need to be coordinated differently to be able to respond to the draft Bill. There are a number of different providers and funding streams for early years provisions currently, which leads to problems concerning how/why funding is used the way it is and the lack of transitions e.g. between Flying Start and maintained schools. All of the 0-25 remit would need to be managed by one team only to ensure a seamless journey for the young person.

By introducing the 0-25 age range in the draft Bill it is hoped that this will improve the transition process. In theory this will work well but there needs to be clarity of criteria, funding streams, responsibilities and provisions. There is a disparity between what is being proposed and what is currently available, especially for the 0-3 year age group.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The draft Bill contains some assurances that provision will be secured by the NHS Trust or LHB if agreed in an IDP. This will however, depend on suitable engagement between education and health when preparing the IDP. The health aspect is a concern .

Those professionals attending the IDP meeting will need to have the authority to be able to make decisions on availability of provision and resources. There would also still be some query due to past and current experiences regarding the availability and retention of providers.

The framework is not currently robust enough to ensure that parental expectations will be fulfilled and there is not enough clarity on the legal status. This lack of legal status may also lead to difficulty in accessing grants and allowances for the support of children and young people by parents which will be a further barrier to the acceptance of an IDP instead of a statement for parents and carers and cause tensions between parents/carers and LAs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Within the person centred processes there would be scope for children and young people to have their interests protected and promoted.

The Bill does have a very heavy focus on provision and unless there was a guarantee of the delivery of all provisions identified, the desired outcomes may not be realised.

The ALN Code would need to contain guidance around desired outcomes of a person centred approach to ensure that IDP meetings are meaningful and purposeful.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The draft Bill encourages the engagement with health and social care with the belief that this will lead to a true, shared responsibility of provision with education. However, the Bill does not give specific details of the statutory responsibilities from these agencies and will still be open to interpretation as now.

To ensure shared responsibility takes place, a robust Code needs to be in place to support the Bill, containing a strong definition of ALN which does not leave itself open to misinterpretation, full descriptions of statutory rights and realistic and workable systems for the whole of Wales.

There needs to be collaboration and firm agreements made with health and social care so that there is a shared understanding of each other's roles and responsibilities, restrictions and duties. Although there may be a willingness and desire to work collaboratively to deliver support for children and young people with ALN, this is not always possible due to constraints within the different service areas. These barriers need to be broken down for complete collaborative work to be achieved.

Budgets will play a very big part in the multi agency working for young people. There is a reluctance to share costs for equipment and other provisions currently and this will need to change so that all agencies take full responsibility for the identified needs of the young person. This needs to be part of the Bill and as mandatory in the code, not a desirable action.

The proposal to use ALN as terminology could be used as a reason for the lack of cooperative sharing of budgets between agencies, as identified needs may all be judged to be educational learning needs.

It is concerning that there was no forward planning between education and health to be able to produce the single plan that has been anticipated for a number of years and would have been the way forward to truly manage and respond to the needs of all young people.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/> x
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Supporting comments

The Bill provides a framework including independent advocacy services and the right of appeal to an independent tribunal whose decisions are binding. The key word is ‘independent’ as the Bill needs to ensure that any advocacy service provides robust and fair advice and the tribunal considers appeals with complete impartiality. The system currently gives the impression that there is a bias and unfairness to the process and any changes to ensure an improvement to this system must be welcomed.

In the Bill there will be an appeal system for a number of purposes. The Bill and current information in the Code does not provide strong enough criteria or guidance to avoid disagreements. As discussed above, the definition of ALN, the decision related to needs and responsibility for provision will all be open to interpretation due to the proposed non specific wording of the Bill.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The ALN code is an integral part of the change process and needed to provide the detail to accompany the draft Bill. Unfortunately the two documents were not available at the same time.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Where will the extra funding come from to be able to extend the age range for LA responsibility to 0-25?

How will special schools cater for the extended age range without further building works, staffing and resources?

Is there an expectation that LAs will complete their own IDP quality assurance? If so, there will be a variation across Wales as now, rather than taking the opportunity to ensure consistency by providing an all Wales template. There will be examples of workable documents available across Wales following the numerous trials that have taken place over the last 7+ years and these could be utilised.

Where will the extra funding come from to support the training of ALNCOs, ensure that they are allowed enough non contact time and that they are at SMT level?

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

SEN RESPONSE FROM ST WOOLOS PRIMARY SCHOOL

Our concerns about the proposed changes:

The excessive amount of time that needs to be spent on administering IDPs and budget implications

We currently fund the ALNCO for half a day's non-contact time at present and also provide additional days when necessary. There is no funding available within the school's budget to increase this.

As well as requiring more ALNCO time, the IDP process requires teacher and support staff time. There are currently 103 pupils on our SEN register and each one would require separate SENCO meetings with a teacher, a TA and a parent to complete each section. There is insufficient time within the school day to achieve this. Current discussion with parents takes place at evening consultations.

The ALNCO's role would change to become mainly administrative and would restrict the amount of time available for intervention and essential engagement with other agencies. Funding would need to be provided in order to take the ALNCO out of the class to hold the necessary meetings for each pupil.

There is insufficient capacity within the school budget to increase this. Our school currently uses a significantly amount of its PDG supporting pupils who also have SEN. This PDG funding, which also allows us to include some non-FSM pupils within groups, is essential to support the SEN budgetary allowance currently provided for pupils on our SEN register.

Some of our PDG money already committed to the employment of counsellor and a psychotherapist, both of who could potentially have less time available to work in our school if they were required to attend IDP meetings for pupils that they might be working with in another capacity in another school.

The decision-making responsibility that rests on the ALNCO

We are very concerned about the situation that would arise when an ALNCO decision faces legal challenge. Education litigation is increasing so this possibility is becoming ever greater.

The difficulty and impracticality of getting professionals to attend IDP meetings

There is currently a difficulty getting professionals to attend annual reviews so requiring them to attend IPD meetings would be an impossibility.

Conflict with early identification expectations

If more professionals such as speech and language therapists, occupational therapists and speech and language therapists are expected to attend IPD meetings this reduces significantly the amount of patient appointment time

available. Accessing services such as occupational therapy and CAMHS is currently a problem and since they are such crucial first steps in the early identification of cognitive or medical difficulties, such a requirement would compromise current early identification and intervention severely.

The requirement for all ALNCOs to have Masters level qualification.

Whilst this is good in principle, the time taken to introduce this would have to be very carefully thought through, so that it doesn't reflect the current situation regarding NPQH where there are insufficient qualified candidates for headships and where there is a recruitment crisis across most parts of Wales. Additionally, attention would have to be paid to the huge cost of such a programme.

It would be more beneficial for ALNCOs to attend a shorter compulsory training course in effective writing and administration of IDPs. It is also important that there is far better AEN delivery in initial teacher training.

Heather Vaughan Helen Bishop
Headteacher ALNCO

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: **Dr Greg Walker**

Organisation (if applicable): Colegau Cymru

e-mail/telephone number:

Your address

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other –	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The definitions in the draft Bill in relation to ALN and ALP appear to be reasonable and helpful. There is widespread support for the move to the term ALN and ALP for the recognition that additional learning needs do not cease when learners enter post-16 education or training. The draft Bill covers the appropriate age range for provision in this key area.

There is a need to avoid parents gaining the impression that learners are entitled to continuous education until 25, when colleges will be unable to guarantee this due to funding limitations. There is a need for guidance about what happens at the age of 25 and is it a final IDP review with agreed appropriate named services?

There are concerns regarding the definition of Additional Learning Needs and a need for greater clarity is needed to define exactly what is meant by ‘significantly greater difficulty’.

Clear guidance would be needed for some categories of ALN e.g. mental health, gifted and talented, medical and social issues.

It would be useful to include an exemplar notification letter with the Code including statements about the right of appeal to the local authority and the Tribunal.

Regarding the parental voice (para. 311) it is suggested that those beyond statutory school age are classed as independent learners in that they do not need parental support. This is out of step with parents evenings offered by FEIs up to the age of 18 and telephone calls home in respect of attendance etc. However, a balance should be struck between gaining support and involving parents whilst enabling young people to become more independent and take decisions about their own learning. There is a responsibility on all parties involved to support parents as far as possible to become ‘experts’ in their own young person’s condition with an understanding of what interventions and learning may enhance their life even if this raises issues of independence that may be difficult for parents.

The use of the terms ALN and ALP would seem to be appropriate ways of identifying learners who will need special attention within FE. The interpretation of the definitions used may take some clarification and work needs to be carried out on producing examples and case studies to further clarify the range of learners affected.

It is currently unclear from the information available just how many learners may be included by the ALN/ALP criteria. Under the present system, school action and statemented learners are all included on a school's SEN register. A significant proportion of these learners move onto college without the need for additional learning support. This will depend on the level of educational independence they have achieved as well as the nature of the course they intend to enrol on. A dyslexic learner on a Level 1 Bricklaying course may not need any ALP at all. However, if the learner has left school with an IDP in place the question arises as to whether the FEI be bound to continue this plan.

Learning difficulty is a slippery term to define as the range and complexities of different brain 'dysfunctions' and the varying ways in which different professionals consider these, make it challenging to find agreement. The number of disclosures of ALN FEIs receive is proportionally high for the number of enrolled learners and the increased processes would have an impact on resources.

The lines have also blurred over the last 10 years in differentiating between diagnosed learning difficulties (those that fit into a currently accepted definition such as dyslexia) and other less 'tidy' general and specific difficulties that may impact on basic skills or narrow aspects of memory and perception.

We may need to quantify the degree of difficulty (e.g. standardised scores of less than 80) and balance this with less objective teacher judgements of the impact on progress against potential.

The definition of ALP in the Bill may need further explaining. Perhaps the inclusion of the word 'significant' might help to differentiate between learners who may receive a brief but additional strategy session or a USB memory stick with free accessibility software from those who require longer-term intervention.

There are also some concerns about the ability and capacity to supply sufficient ALP in Further Education to meet Additional Learning needs for learners to the age of 25, particularly within the current climate of reduced funding in Further Education. The explanatory guidance to the Bill suggests that FEIs would not incur any additional costs (7.157), however this does not take into account the 0-25 age range and the need for ALP for an extended period for learners. If learners needs are to be successfully met for this extended period, then adequate levels funding would be required.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The legal framework proposed is clear and robust. The only caveat ColegauCymru would note relates to the way that FE colleges are treated under the draft Bill, particularly in section 10. FE colleges in this section have specified duties in relation to IDPs laid upon them. Similar duties are not placed on other post-16 establishments that people with additional learning needs may be placed, such as training providers or independent residential colleges.

There is a broad welcome from the FE sector for the move towards a more person-centred approach with greater active participation by the learner and their families.

Some concern has been expressed by FEIs about the threat of litigation and the risks of lawyers emphasising this as a normal course of action if disagreements arise. This risk is minimised by a robust system of information sharing, acceptable timescales for assessment and/or support to be put in place so that disagreements, complaints or threats of being sued are avoided as far as possible.

Further work within the Bill or perhaps more appropriately within the Code, needs to be carried out to provide greater clarification of the criteria used to identify who receives an IDP.

The IDP has the potential to provide clear, concise information about a learner throughout their education and for the first time this may provide a consistent and useful tool for schools and colleges to use in meeting ALN. The crucial part of this process will be in the approach that is taken to drawing up IDPs. If too much information is required there is the danger that they will become meaningless documents that are too cumbersome to be of any use.

There is a need for a transition period to ensure that FEIs are supported in being able to comply. In particular the following will be needed to:

1. Study the capacity of FEIs additional duties and its resources with regard to holding reviews, its recording and circulating of information etc. time management and cost of this process.
2. There is real concern within FEIs about the initial roll out of the new IDP process within seven weeks of ALN being identified. It is difficult to see how FEIs will be able to cope with the demand for IDP meetings at the busy start of a new academic year. There may be strategies adopted to undertake the work at the end of the previous year including the last IDP meeting in schools but there must be a deliverable process in place before September 2016. This should clarify who will have responsibility for creating/setting up IDPs for all learners who happen to be at the college and a sensible timescale to complete.

- 3. Guidance with regard to responsibility for producing, reviewing and ceasing IDPs.**
4. Consider and provide guidance conducting the planning/review process. There will be variety in the time required for learners with minimal needs and those with complex needs. FEIs need to know whether a 10 minute review for a learner with few needs is acceptable.
5. Support to develop information sharing procedures and multi-agency working with Service Level Agreements between organisations including CareersWales.

There is a case for a ‘level playing field’ between providers in this area, as all these providers are in the Third Sector rather than the public sector (unlike maintained schools which are in the public sector). One way of achieving this would be for the requirements on colleges in relation to IDPs to be instead included in the Welsh Government’s conditions of grant sent to colleges each year, rather than via primary legislation in this Bill.

Either way, FE colleges see their work with students with additional learning needs as a core part of their mission as open and inclusive institutions serving all people in their communities.

Notwithstanding this unequivocal commitment, FE colleges have not been properly resourced to deal with the costs of ALN provision. SLDD funding from the government has not kept pace with the growth in their students’ requirements for ALN support in colleges. This has put financial strain on colleges and made it difficult for colleges to provide the most appropriate level of service for students with these additional needs.

The draft Bill does not clearly address this issue, but ColegauCymru would ask that a priority for the Welsh Government should be to address this point in parallel with the passage of the Bill.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The draft Bill has the potential to ensure that the interests of ALN learners are protected. However, it is essential that the inclusion of the 0-25 age range does not give the impression that ALN learners generally have the ‘right’ to continued education up to the age of 25 just because they have a learning difficulty. Due to public funding constraints this is regrettably not the case. FE colleges will need to ensure that learners are accepted and enrolled on learning programmes based on their potential to achieve the qualifications and develop their skills in their own right. Otherwise there is a danger that limited support funding could be drained in an attempt to assist learners to meet the

requirements of courses that may not benefit them academically or practically.

The focus on Person Centred Planning (PCP) and provision is welcomed and clearly has a part to play in ensuring that learners are fully engaged in their education and support and that they feel fully consulted. Most FEIs already have a learner-centred approach to enrolment, education and training. It will be important to provide FEIs enough flexibility in the way that they approach PCP reviews and IDP design to ensure that the system does not create so much additional work that the net result is a reduction in quality for all.

The introduction of a PCP and ALP for ALN students is positive and will aim to promote and protect the interests of children and young people. To ensure success, practitioners from all sectors will require training and appropriate skills to develop PCPs, IDPs and conducting reviews.

The Bill promotes a single and consistent process which will help smooth transition points and provide benefits for students and practitioners. There needs to be more clarity on transition to HE in terms of the relationships and responsibilities between FE and HE providers. Providers will need to understand their obligations and responsibilities for students that opt out of the process.

IDPs will need to have realizable outcomes and robust reviews in order that students are fully prepared for progression to achieve transition in terms of selecting appropriate courses of study, appropriate methods of transport and appropriate support.

There is already considerable pressures on FE financial and human resources, so additional resources will be required if the objectives of the Bill are to be delivered.

The appointment of a trained professional ALNCo is critical and must not be overlooked by any FEI. ALNCo role is pivotal and commitment to funding these posts will be necessary if students are to receive the support detailed in the Bill. The remit of the ALNCo is almost too broad, ranging from strategic to operational.

Though the draft Bill, if enacted, would be helpful in modernising aspects of the legal framework surrounding ALN provision, we express some ambivalence in response to this question as many of the issues in relation to ALN are not based on legislative considerations.

Strong and consistent multi-agency working is the key to the successful achievement of person-centred practice for students with additional learning needs. This is all too often lacking in the experience of many FE college staff supporting students with ALN. There are a variety of reasons why there are notable deficiencies in this multi-agency approach in some cases and these doubtless include regrettable financial or staffing shortfalls in each agency.

At the crucial transition points – learners leaving school being a crucial one – the imperative of seamless multi-agency working is all the more important. It is at these points however that there are often shortcomings in prompt and comprehensive information sharing. Colleges often find that there are delays in schools passing all the relevant information on a student with an ALN to the college, making it all the more challenging for the college to make the right

support available to the student on enrolment.

There is a need to lay out the schools' obligations at the transition to FE and firmly address the current problems with inconsistent approaches and some refusals to pass on information. To ease transition for learners, this should include 'what works and what does not work' for the learner to avoid repeating problems.

At points of transition where IDPs may have to be reviewed, a fresh or updated professional diagnosis of conditions is also critical in ensuring that the most appropriate support is made available to the student. Professional input at this point is important, but the costs of acquiring it can be high. Colleges too often find that health bodies or other partner bodies are not forthcoming in providing this professional input themselves.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The proposed process has the potential for improved collaboration between agencies. Additional resourcing would be required by all agencies to meet the increased workload in terms of attending review meetings, inputting data and creating action plans. From an FEI perspective, this collaborative approach would allow the learners greater access to external agencies and specialist resources would be advantageous.

The introduction of IDPs throughout the age range should create better information sharing between schools and colleges. Welsh Government needs to continue to do everything it can to encourage LAs, schools and colleges to work together to develop effective ISPs. Information sharing protocols will need to be effective with information easily accessible in consistent formats. Information could be collected on a shared data base but this may be difficult to put in place across Wales with responsibility now with a range of local authorities.

Local authorities (LAs) and FEIs have not worked together on an organic basis since incorporation in 1993. It is unclear at this stage exactly how their working relationship will evolve and there is certainly room within the CoP to provide more detail about this. It will be challenging to achieve every multi-agency member to attend or inform every review. The delegation of specialist post-16 funding to LAs may provide an opportunity for closer working to improve the long-term experience of young people with complex difficulties. The success of this will depend on the involvement of partners in social services and health.

It is essential that Careers Wales continue to play a part in the progression of learners with ALN beyond the age of 16 in order to ensure that their best interests are met. FEIs do not have access to a variety of ALN educational professionals within LAs e.g. educational psychologists. How would the post-16 sector access services to assess mental health needs of young people? Barnados have already identified the problems associated with the lack of provision of appropriate and accessible mental health services for 16 and 17 year olds in Wales. The problems linked to transition would require health services to engage in order to support, assess and maintain IDPs as required.

The introduction of Clinical/Medical Officers could potentially have a very positive impact on improving the co-ordination of services for children and young people in education. There needs to be clear lines of communication between ALNCos and these officers with opportunities to meet regularly to discuss issues and concerns.

There is a consistent welcome for the inclusion of an insistence that agencies work together to deliver for children and young people with ALN. This is urgently needed; however the practicalities of this are often complicated particularly for FEIs with a geographical spread of campuses that include many feeder schools, more than one local authority and health authority and multiple agencies that they need to work with. If this is to work in practice then agencies will need to be able to ensure that they have capacity to be responsive and adhere to timescales/deadlines. Adding something as a legal requirement does not always ensure its full implementation.

There is a need for clarification of what provision and support each agency is responsible for should be agreed through SLAs. The role of the LA will be key, particularly within the transition phase. This responsibility is currently with Careers Wales and there are questions about the capacity of Local Authorities to do this work and act independently always in the learner's best interest with the risk of the LA to become the dominant partner. The role of the Third Sector's expertise and community-based services need to be recognised and included with equitable allocation of resources per organisation. There is a need for investment in developing a multi-agency framework for delivery to ensure efficient use of local resources.

The role of the LEA is unclear in relation to FEIs – clarity needed on the management role of the LEA 16-plus. Schools and FEIs are very different and the FE sector clearly has the greater expertise in delivering post-18 education and post-16 vocational education. It would be difficult to accept guidance in this area from LEAs who have no expertise in delivery within the FE sector.

WASPI and information sharing protocols need to be 'firmed up' there still seems to some mistrust of sharing information with other providers. In connection with the sharing of information para. 342 of the Code refers to schools or FEIs having difficulty in obtaining information from other public bodies. It is suggested that they should notify the local authority who could take over preparation of the IDP under statutory duties. Does this also apply to the FE sector? FEIs have their own WASPI arrangements and often work across several LEAs at any one time.

It also relates to the difficulties that the various agencies have in their ability to share information easily across institutional boundaries. This is due to the lack of a single and secure IT system containing the relevant information on the

student with additional learning needs. A new secure IT system or ‘extranet’ accessible to schools, LEAs and colleges, or clearer Information Sharing Protocols between agencies, will be critical in ensuring that multi-agency working is improved. (If a single accessible information portal is chosen, this would best be held by the LEA.) This is probably not a matter for legislation.

A strong case is made by the FE sector for an All Wales Information Sharing Protocol to strengthen the perception, ability and willingness for schools to share information about students’ ALN with FEIs. Guidance about what information can be shared, in what circumstances, and with whom, would be very useful.

With regard to transport there are sometimes areas of concern regarding post-16 transport. Guidance may be needed to ensure equity of provision 16-19 where the FEI is a tertiary college. There have been occasions where transport has been provided (because of a disability) for a pupil at a local special school up to the age of 19, but has been refused for a college student of the same age and with a similar disability because that student is educated in the FE sector rather than by the LEA.

There needs to be clearer accountability when one or more agency does not live up to reasonable expectations in relation to joint working on those students with additional learning needs.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The provisions made within the Bill for avoiding/resolving disagreements appear to provide a basis for success in this area. There is, however, a great deal of concern regarding this within FE and work will need to be done with FEIs to support them in the development of suitable procedures and systems. It would be helpful if a body existed that staff within FEIs could refer to for advice regarding such issues. The issue raised against question 3 of this response also needs to be addressed to prevent unnecessary appeals and disagreements. A simpler guide for parents needs to be produced that outlines what the Bill is intended to ensure and what it does not do. For example, it is not intended to provide an automatic right for every learner to stay in FE until they are 25.

The appeals and Tribunal function appears to be clear and in line with legal norms. ColegauCymru’s view on the legal duties on FE governing bodies in relation to IDPs (e.g. section 10 of the draft Bill) may affect the applicability of

these appellate arrangements in relation to FE colleges. We would welcome discussion with officials on how the final Bill might be amended to reflect this position.

The Bill appears to have a concise framework which deals with appeals, however further clarity in relation to the process of avoidance and resolution of disagreements would be welcomed. There are concerns regarding the new duties and responsibilities for FEIs and the likelihood of an increase of tribunals and appeals associated with the extension of the age range of learners within the legal framework.

Paragraph 201 of the draft Code states that FE colleges may refer a learner to the LEA to make a determination as to whether or not a young person has an ALN, or because the young person has an ALN and needs ALP which it would not be reasonable for the governing body to secure. Paragraph 318 also refers to the above. Paragraph 492 'matters about which appeals can be made' (7th bullet point) refers only to schools. Is this correct or should it also read FEIs? If it is not reasonable for the FE governors to secure the level of support and the request is made to the LEA to maintain the IDP which is rejected, is there a right of appeal by the young person or parents?

Legal appeals should be a last resort for all concerned, especially for the student affected. All agencies should therefore do everything in their power to ensure that issues are resolved at the earliest juncture.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Our comments here relate to the draft ALN Code, which will be subject to consultation in due course in any event. The relevant points are that the draft Code needs to:

- Deliver consistency in documentation with standard templates and format that link to other data recording systems (e.g. MIS).
- Make a clearer and more consistent differentiation between the terminology of 'child' and 'young person'. There are one or two places in the draft Code where this usage is unclear or imprecise.
- Spell out in more detail the role of parents of students with additional learning needs who are 16 or 17 years old. Though these students are still children in a legislative sense, they can expect a substantially greater degree of decision-making on their own education at this age. Some clarification on the role of parents for these students would be

helpful.

- Clarify the meaning of para.168 compared to para.216, as there may be some confusion as to the conflicting interpretation of the role of LEAs and colleges when the texts of these paragraphs are read together.
- Clarification is needed regarding the post of ALNCo within organisations. The size of many colleges in Wales with multi-campuses following mergers is likely to require a team of staff to carry out this role. An opportunity for debate around this issue would be helpful.
- The draft Code makes clear that ALNCos should be on the senior management team and that they need to have direct control over policy. While the latter of these points is clearly important, the varying complexities of FEI management structure might make the former point inappropriate.
- Benefit from direct engagement with managers in the FE sector to ensure that the ‘further guidance’ referred to on pg. 38 of the Code is developed in concert with the sector.
- Place centre-stage the issue of information sharing protocols or a single LEA maintained ‘extranet’ where information held on ALN students/pupils can be held. This would be key in facilitating multi-agency working.
- Upskilling and training of all college staff involved in the implementation of the Bill. It has been noted that Initial Teacher Education and Training will be adapted to meet pupils ALN needs and Education and Skills Minister recently confirmed this in a Children, Young People and Education Committee meeting. It will be important for post-16 PGCE training be adapted to support the requirements of the new . CPD for practising professionals in FE should also be rolled out through a government funded programme coordinated through ColegauCymru.
- We would welcome comprehensive guidance that has been produced in documents such as the draft explanatory memorandum, the draft ALN code and the PCP review toolkit. It is recognised that even more useful information to clarify the new legislation will be within these documents. However, there is a real danger of an ‘information overload’ and a need for simple, short guidance provided in a variety of media to make the information accessible to all. Practitioners and managers will need to be able to access awareness sessions and professional development sessions that cover the following topics identified earlier in this

response:

- 1. Understanding responsibilities within the new legislation**
 - 2. Person-centred practices: keeping the learner at the heart of the process, supporting parents**
 - 3. The assessment of need**
 - 4. Producing and maintaining IDPs**
 - 5. The role and responsibilities of the ALNCo**
 - 6. Transition points: best practice in multi-agency working**
 - 7. Developing and using information sharing protocols**
 - 8. Understanding the framework to support disagreement avoidance and resolution**
- The development of case studies to show best practice and provide material for CPD would also be welcomed by FE colleges.**

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Though the Bill is right to advance a person-centred approach through IDPs, specific issues need to be addressed in order for the Bill to be effective in reforming existing service. These points include:

- For learners with mental health difficulties, it is not clear how the new IDP would benefit them in terms of support provision given the inadequacies in the provision of Child and Adolescent Mental Health Services in Wales. Without an increase in services and specialist support staff in this area there is a likelihood of additional unmet demand for these services which poses a training and funding issue for colleges.
- There is the proposal that the new Bill will replace the existing Looked After Children review. It would be good to incorporate this system but a coherent format would need to be agreed in terms of giving a notice period, transition and integration into a new education establishment. There is potential for the learner to adjust to college life which could impact positively on retention and progression.

- There does not appear to be any mention of the considerable differences in the needs of learners as they pass into FE and beyond. We know that support can have a disabling effect on young people and it is essential that they are encouraged to develop independence throughout their education but more urgently post-16. It would be helpful to have this included within the Code of Practice and schools and FEIs need to show how they are enabling learners to develop these skills.
- It is important that parents, carers and their children have a clear understanding that additional learning provision must take a growing account of the need to encourage independence. This may involve a reduction in some aspects of support over time. Some parents may resist fight against this without realising the potential damage over-supporting can cause.

N.B

- The Welsh Government should note that Autistic Spectrum Disorder is now usually referred to as Autistic Spectrum Condition. Consideration should be given to referring to these learners as having a condition rather than a disorder in all future documentation.

Welsh Government
Draft Additional Learning Needs and Education Tribunal
(Wales) Bill
18 December 2015

1. The NASUWT welcomes the opportunity to comment on the draft Additional Learning Needs and Education Tribunal (Wales) Bill (the draft Bill).
2. The NASUWT is the largest teachers' union in Wales and the UK representing teachers and school leaders.

GENERAL COMMENTS

3. The NASUWT notes that although the consultation document is brief and the response form asks just seven questions, the accompanying documents are extremely detailed and lengthy. It is, however, recognised that the Easy Read explanation of the draft Bill presents an extremely helpful oversight of the proposals.
4. In addition, the NASUWT recognises that the draft Additional Learning Needs Code (the draft Code) provides the most accessible means of understanding the purpose of the Bill.
5. The NASUWT submitted a detailed response to the 2014 White Paper, *Legislative Proposals for Additional Learning Needs*, which was broadly positive of the changes that were being proffered (a copy of the NASUWT response is attached as Annex A, including the annexes to that response).

6. However, the Union identified three important areas that would need to be addressed in the Bill, in order to protect those charged with the responsibility of implementation, namely:
 - workload impact assessment;
 - access to professional development;
 - sufficiency of funding.
7. The NASUWT is disappointed to note that the draft Explanatory Memorandum, accompanying the draft Bill, does not include a specific impact assessment of the workload implication associated with the draft Bill.
8. Likewise, apart from stating that teaching practitioners have responsibility for their own professional learning and development, and that they should undertake professional learning in relation to additional learning needs (ALN), neither the draft Explanatory Memorandum, nor the draft Code, provide any confidence that the training and development needs of the education workforce have been given careful consideration.
9. The NASUWT maintains that references to teaching practitioners being able to access information guidance, tools and/training materials, and suggestions that there are a range of organisations able to offer support and professional learning in relation to ALN, demonstrate a woeful lack of understanding of teachers' contractual rights and entitlements, especially, but not exclusively, the right to a work/life balance.
10. The NASUWT is concerned that the failure to undertake an assessment of the workload and of the training and development implications associated with the draft Bill, casts grave doubt on the credibility of the costs attributed to options 2 and 3 in the draft Explanatory Memorandum.
11. The NASUWT believes that the funding requirements of the person-centred approach, the enhanced duties and responsibilities placed on the Additional Learning Needs Coordinator (ALNCo) and all teaching

practitioners, and the introduction of the individual development plan (IDP) envisaged in the draft Bill, have been seriously underestimated.

12. The NASUWT maintains that the draft Bill must make provision to:

- protect teaching practitioners, and others, from excessive workload and unnecessary bureaucracy;
- require the identification of the provision of time within the timetabled teaching week for the ALNCo to fulfil the duties and responsibilities associated with the role, including access to professional development;
- require the identification of time within the timetabled teaching week to enable teaching practitioners to adopt the person-centred approach, including access to professional development;
- place a duty on the Welsh Government to assess and provide annually sufficient funding to support, fully and transparently, the requirements of the Bill;
- place a duty on the Welsh Government to establish a formula for restricting class and group size, and identifying the number of teachers and support staff required, in relation to the number of pupils in receipt of an IDP.

SPECIFIC COMMENTS

13. The NASUWT offers the observations and comments that follow in relation to the questions posed on the consultation response form.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of additional learning need ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor	<input checked="" type="checkbox"/>
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				disagree	
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Supporting comments

Although it is accepted that the draft Bill reflects appropriately the Welsh Government's intended focus on educational needs, it is clear from the draft Explanatory Memorandum, where the advantages and disadvantages of Option 3 (the option on which the draft Bill and the draft Code has been progressed) are considered, that the draft Bill will limit the scope of learners to be captured by the proposed definition of ALN to those most in need of support.

Indeed, it is suggested that the number of learners who would come under the new definition of ALN should be no greater than those currently captured under the special educational needs (SEN) definition in schools or the learning difficulties and/or disabilities (LDD) definition in post-16 education. The NASUWT is concerned that, despite assurances that both non-statutory and statutory provision for children and young people with SEN and LDD will fall within the scope of an IPD, this could imply that fewer children and young people will benefit from additional learning provision (ALP) than is the case under the current system.

Consequently, the NASUWT reserves judgement on whether the draft Bill will deal properly with the age range it sets out to capture.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The NASUWT has identified several deficiencies in terms of the robustness of the legal framework for the preparation, maintenance and review of an IDP as set out in paragraphs 6 to 12 of this response.

Further, the NASUWT notes that the draft Code provides Health Boards (HBs) and National Health Service Trusts (NHS Trusts) with the option to disagree with requirements, which must be made by a school, further education institution (FEI) or local authority (LA) in IDPs that seek the input of health professionals. The draft Code is silent on how such decisions by HBs and NHS Trusts can be challenged.

The NASUWT is concerned that a school, FEI or LA could be left to provide for the requirements of an IDP and ALP where a HB or NHS Trust does not agree to provide the support requested.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The NASUWT recognises that the draft Bill could help to ensure that the interests of children and young people with ALN are protected and promoted but maintains that the issues raised in this response must be addressed, if high aspirations are to result in improved outcomes.

Investment in, and the protection of, the education workforce will be vital to the successful implementation of the provisions of the draft Bill.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Regrettably, the NASUWT must disagree here, as it appears that the burden of delivery will fall mainly on schools and FEIs (especially, but not exclusively on the ALNCo) and on LAs.

The concerns of the Union are compounded by the provision in the draft Code that allows HBs and NHS Trusts to decide if they agree to collaborate with the requirements of an IDP or ALP, as referred to in answer to question 2.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In noting, with concern, the extent of the responsibilities placed on LAs in relation to making arrangements for both avoiding and resolving disagreements in relation to ALP, the NASUWT acknowledges the

appropriateness of the proposed framework and recognises that the draft Explanatory Memorandum makes it clear that Option 3 (the option on which the draft Bill and the draft Code has been progressed) would not require dispute resolution procedures to take place before an appeal can be made.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

As stated previously, the NASUWT felt that the Easy Read explanation of the draft Bill provided a helpful oversight to the proposals and that the draft Code provided the most accessible means of understanding the purpose of the draft Bill.

In addition, the draft Explanatory Memorandum proved useful for carrying out specific word searches, such as ‘funding’, ‘workload’, and ‘professional learning’ (this is, of course, not possible with a hard copy) and the draft Explanatory Notes at Annex A, in particular the commentary on sections of the draft Bill, provided a good synopsis of the provisions of the Bill.

As referred to elsewhere in this response, the NASUWT found the impact assessments to be deficient in relation to workload, professional development and funding.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The NASUWT notes, from the Ministerial Foreword to the consultation

document, the desire of the Welsh Government to introduce the Bill as early as possible in the next assembly term.

The Union expects due regard to be given to the raft of changes that the schools, in particular, are currently coping with, and that the New Deal on professional learning and development is in its early stages, when considering the date of enactment of the Bill.

In addition, the NASUWT maintains that the timescale, of one year, for transferring learners with statements of SEN to an IDP is far too short and will place those involved in the process of developing or contributing to the IDP under pressure, which could be alleviated by extending the transfer period.



Chris Keates (Ms)

General Secretary

For further information on the Union's response, contact Rex Phillips, National Official Wales.

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Dr. Alison Stroud

Organisation (if applicable): Royal College of Speech and Language Therapists

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input checked="" type="checkbox"/> <input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Definition

RCSLT has a number of concerns about the lack of clarity around the definitions of ALN and ALP within the draft bill, particularly around the usage of the words ‘significantly’ and ‘generally’. In our view, the term ‘significantly greater difficulty’ only refers to the child and takes no account of the skills and resource surrounding the learner. For example, the ability of teachers to differentiate the curriculum. In our reading of the current terminology used within the draft legislation, ‘significantly’ in its purest form would equate to 49% of the learner population. This would clearly have a major impact on resources. We suggest, as an alternative, a percentage population target of ALN support may be helpful to consider, as is in place in Scotland.

Related to our concerns with regards the breadth of the definitions, RCSLT also wish to raise a number of issues with regards the implications of the IDP process for speech and language therapist (SLT) resource, particularly with regard to potential meeting attendance. Under the current system, SLTs who treat children with non-complex needs attend schools to assess the needs of the child and prepare written care plans which are often shared by post and by e-mail. Under the new legislation, we understand that SLTs could be invited to attend a far higher number of meetings in person given that the graduated response will be removed and all children with ALN will now have multi-disciplinary IDP meetings. Approximate calculations within one local health board in Wales suggest that we may move from a system where SLTs attend multidisciplinary team meetings for 25% of current case load (statements of educational need and a minority of School Action Plus) to a situation where SLTs would be invited to attend meetings for 90% of the caseload. This would translate to approximately 2 full time equivalent members of staff to be employed to attend the meetings at a cost of £70,000. Given this likely impact, we strongly recommend that consideration be given to other ways of promoting collaborative working between health and education such as IT infrastructures.

Age-range

RCSLT is aware that the issue of transition planning, supporting young people to move from children’s to adult services, and commissioning gaps regarding speech

and language therapy services for young people aged 19-25 have been an issue of concern in England, where similar legislative reforms have been introduced. We believe that there needs to be a scoping exercise undertaken to ascertain the numbers of children in each local health board/ local authority area who could need access to adult services, and what impact this would have on staffing levels. Our view is that such a scoping exercise may give a clearer indication of the financial implications of the bill.

We would also be keen to see further consideration be given to the early years stage of the spectrum within the legislation given its crucial importance to the preventative approach. Evidence from the Flying Start programme has revealed that previously 50-70% of children from socially-deprived areas have identifiably lower speech, language and communication levels than their peers from non-disadvantaged areas. A focus on early years speech, language and communication within the Flying Start programme is having a significant impact with evidence suggesting that 80% of those needs have now disappeared by the point children, who have been supported by Flying Start provision, commence school. It should be noted that should Flying Start be disinvested, there would be an extra responsibility placed on education to manage educational disadvantage in deprived areas.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

RCSLT members would wish to see greater join up between the draft bill and existing legislation such as the Social Services and Wellbeing Act. Legislation should also consider cross border issues as these are currently extremely complex and currently take up a disproportionate amount of practitioner time.

Whilst we welcome the emphasis on a simple, timely, more person-centred system, we urge that Welsh Government ensures that the removal of the graduated system does not increase bureaucracy for health agencies. In our view, this new framework will only prove successful if underpinned by effective collaborative working between health, education and social services and proportional usage of professional time. Legislation needs to build on the positive, existing relationships which have developed over time and not undermine these developments. We have discussed our views on the draft bill and collaboration further in response to question 4.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

RCSLT welcomes the ambition of the bill to improve outcomes for children and young people with ALN and in particular its focus on outcomes rather than entitlements to inputs. In our view, this approach must be underpinned by integrated pathways between health and education. As an example, in the pilot projects mentioned in response to question 4, services have been combined so that the knowledge and expertise of staff from health and education have been brought together. Staff in schools and maintained educational settings have been upskilled to manage speech, language and communication needs prior to, during and after specialist-level interventions from health, allowing best use of resource and a focus on outcomes for learners. This combined service has been accepted by the LA as their responsibility to fund. New legislation may destabilise those agreements.

RCSLT is committed to promoting person-centered planning and welcomes the emphasis within the bill on supporting the participation of children and young people with speech, language and communication needs and their families in the development of IDPs. We suggest that in order to encourage the increased participation of children, young people and families in the IDP process, there is a need to provide training and tools to mainstream and special schools to improve teachers' skills and knowledge regarding how to sensitively and appropriately involve children in the discussions. Packages and tools which could be used to support children to participate in the planning process include Talking Mats; a communication symbols tool developed by speech and language therapists, the use of symbols and appropriate language.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Much has been achieved over recent years in terms of improving joint working arrangements. The pilot projects funded by Welsh Government between 2005 and 2008 were very successful in implementing joint planning for children and young people with speech, language and communication difficulties and promoting collaborative working. Projects based within Bridgend and Aneurin Bevan University Health Board are particular examples of good practice in this regard. We have

provided further information on as an attachment to this response. We would be happy to provide more detail on their approach.

Following the pilots, training programmes such as ELKLAN (training delivered jointly by expert teachers and speech and language therapists to education staff to enable them to be more effective in their support of children with speech, language and communication needs) now run across much of Wales and have increased the understanding of teachers in how to support children with speech, language and communication needs (SLCN) within schools, in the first instance. Initiatives such as communication friendly schools have also paid dividends in auditing progress on this understanding. These developments have reduced unnecessary referrals to speech and language therapy services and ensured a focus on the health funded specialist speech and language therapy service, accessed by 10% of this cohort. A very clear SLCN pathway from prevention, identification to specialist intervention is now in place across Wales. This has increased collaboration in an effective and efficient way with clear definitions of both health and local authority roles and responsibilities in order to improve outcomes. This has resulted in only one SLCN tribunal in Wales in 2013-2014¹ (the latest available figures) and has moved all agencies away from an input-based approach. The Malpas project provides a useful case-study of this service change (please see attached document).

Initial teaching training will also be key in terms of supporting greater collaboration between agencies. Currently, training programmes such as ELKLAN and Community Friendly Schools are funded by local authorities. We would not wish to see these positive local solutions destabilised by new legislation and disputes arising about funding for key initiatives. RCSLT is keen to ensure that the proposed new legislation builds on these improved relations (as discussed above) and does not add a bureaucratic layer which could potentially undermine these positive developments and the trust developed between agencies.

We currently have particular concerns about the role of the Designated Medical or Clinical Officer in relation to the proposed legislation. We would welcome clarification regarding the role and responsibilities of the DMO/DCO and how their work will sit alongside other professionals within the additional learning needs/special educational needs support system, for example:

- Who will this person be?
- How will the role be funded?
- Will this role have the ability to financially commit health services to deliver what is included in an IDP?
- Will this person have to 'gatekeeper' advice on IDPs from health services?

In our view, this function would be far better served by a strategic planning board in place of an individual.

¹ Special Educational Needs Tribunal for Wales (2015). Annual Report 2013-2014. SENTW: Cardiff

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

As previously noted in our response, RCSLT welcomes the focus in the draft legislation on outcomes and supporting the participation of children, young people and their parents in the IDP process. In our experience, if there is a shift to an outcomes based approach, supported by good collaborative working, there will be increased trust between all parties, including parents, children and young people in the system. This will allow agencies to justify decisions made and reduce conflicts and sources of disagreements which have often focussed on input decisions in the past.

RCSLT believes a key solution to reduce the waste and conflict in the current system is to develop prevention services and early resolution to build trust in parents and partners.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

[Large empty box for feedback]

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

[Large empty box for feedback]

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain

anonymous, please tick here:

Dear Sirs/Madams

With regards to the above, I would firstly like to highlight what I consider to be the positives of the proposed changes which include:

- an increase in focus on listening to the child or young person
- extending the age ranges to include 0 to 25, although I, along with many colleagues am concerned how funding will be moved around to accommodate this change.
- the idea of a single plan which would be used across agencies, preventing unnecessary duplication of form filling for some learners.
- the suggestion of a named person in Health Boards which LAs may liaise with – I do wonder if the workload of this new role has been sufficiently considered and costed.
- I strongly agree with the principle that learners should not need a Statement of Needs to facilitate access to appropriate support and/or interventions and therefore the change to move away from this is welcomed.
- the expectation of an increase in professional understanding and knowledge of ALN for all teachers as well as the ALNCo is also welcomed especially when it does not appear to be a strong element of initial teacher training for some, (yet the current Code outlines every teacher is expected to be a teacher of ALN).
- Additional clarity around the role of the ALNCo.

Secondly, I appreciate this opportunity to share my concerns with the proposals outlined in the draft ALN Bill. These include:

- concern over the possible confusion from using of the term 'ALN' instead of 'SEN' as this term is already used as an umbrella term by Welsh Government guidance documentation to ensure all vulnerable groups are recognised and supported. I personally feel SEN is inappropriate but how would be ensure these other groups continue to be highlighted – perhaps PVLN (Potential Vulnerable Learner Needs)

- a continued lack of clarity around the definition of ALN. This, in my opinion, will undoubtedly lead to continuing conflicts due to differing interpretations of phrases such as 'significantly greater difficulty'.

- Also, with the apparent emphasis on the educational settings to develop the IDP for the majority of learners I can foresee a potential rise in conflict between these settings and some parents/carers. It is necessary to have qualified expert assessment for difficulties such as Dyslexia, and although in my experience, even when I explain to parents that it is our intention to support the difficulties we have identified rather than wait for an official diagnosis, (therefore putting in appropriate support anyway), this is often not sufficient for some parents/carers.

I therefore wonder whether it would not be more appropriate to have independent assessment centres which can support the identification of needs for such difficulties if such issues arise. They may also possibly provide training also— with the expectation that educational settings would use this training to build capacity to deliver appropriate interventions themselves. Educational settings may need more support in managing parents/carers expectations too. We are all working within budgets, and I believe with a level of creative thinking many potential obstacles can be overcome but we need at times to all be realistic too.

- The previous changes to the current code of practice was in part an attempt to prevent the burden of overly bureaucratic systems for SENCos etc, and in my opinion this has been unsuccessful. From examining the accompanying draft code of practice for the current draft Bill, I feel the idea of including the level of detail outlined for every child or young person who may have an additional learning need, is indeed again unnecessarily bureaucratic. As indicated in the draft paperwork, educational settings already have systems in place and this would, in my opinion be an unnecessary duplication of work for most of those on the current system of School Action or School Action Plus. In busy secondary settings, where learners have more than one teacher, and therefore these same teachers may see many learners with ALN I believe individual plans should be no more than one page for the majority of

these learners. They would outline the learners identified needs, appropriate targets and useful strategies for them to use to make the system manageable, (indeed also using and including knowledge and advice on what works/does not work from the child and parents/carers perspective is fundamental).

Where a child has more than one agency involved I agree that a standard additional format should be used with an appropriate level of detail included for all services involved but again I stress that I feel that such detailed plans are not needed for all pupils with ALN.

Thank you again for providing me this opportunity to share my views.

Kind regards

Kathryn Williams

Removal of a prescribed statutory Assessment Process.

This dooms many children to be failed. Given the issues LAs currently have with properly adhering to the law and the need to ensure that children who need it get access to those qualified to assess need. It means that provision can be based on whatever is on offer rather than properly looking at what a child or young person needs to help them learn. Only those children who have parents that can afford independent assessments will be in a position to know that their children have a hope of having their needs adequately met.

It also looks as if it is a cost cutting exercise to remove EPs from their roles and give it to far less qualified teachers to assess. This is a huge mistake that will inevitably lead to litigation. I am truly shocked the Additional learning needs Bill will remove the prescribed assessment process.

"Statements of Special Educational Needs S324 (5) and assessments under S323 of the Education Act 1996 are abolished.

The introduction of individual development plans.

S8 provides that the plan is a document that contains (a) a description of a person's additional learning needs; (b) a description of the additional learning provision that the person's learning difficulty or disability calls for; (c) anything else required or authorised by or under the Act.

The likelihood is that the individual development plan will be similar to a Statement of SEN and will be enforceable (S9, 10 & 12).

The plan for the first time will continue until the age of 25 (S24).

Colleges and schools will have to determine the individual needs of a learner S9 and 10."

Only Approved Lists of Providers.

This fails to treat children as individuals and opens the doors wide for corruption and jobs for the boys. Given the massive range of Additional Learning needs it is inevitable that there will be outlying cases of exceptional complexity who cannot be educated in Wales or who need non-standardised provision. To actually legislate in such a way as to ignore the needs of these pupils is morally very wrong.

Children who cannot be educated in a school environment.

My own child falls into this category, due to sensory issues. As a result in agreement with my LA and like others across 8 LAs in Wales he is educated via Interhigh which gives him access to an online mainstream curriculum he would otherwise be totally unable to access. This Bill means he will not be able to sit the 10 iGCSEs he is capable of and instead likely to get nothing at all and will be denied an education at secondary level completely once it is passed. Crazy when his placement costs considerably less than a standard mainstream secondary school placement.

Wales leads the UK in online learning, so an opportunity to support jobs and a new Industry for Wales long term is being thrown away for the sake of sheer shortsightedness!

This Bill totally ignores the needs of a whole swathe of children & young people who because of their disabilities and needs can only access an education outside of the traditional school environment. It seeks to discriminate against the chronically ill child, or the immune suppressed, the pregnant, those with sensory issues, cancer, Autsim and many other categories of additional learning need that encompasses the most vulnerable children and young people of all. To deny a swathe of children access to a state education must be something that can be challenged in the courts at the highest level and that if this bill is passed should be passed to the UN for consideration as it completely ignores the human rights of a great many children.

Our Children are NOT happy with this proposed legislation! A group of them came together to produce this animation as a response to express their concerns (as they have additional learning needs this was the format they selected!) https://www.youtube.com/watch?v=di9A8G9_Cpk

"A child of compulsory school age or person over that age has a learning disability if he or she – (a) has a significant greater difficulty in learning than the majority of others of the same age or (b) has a disability 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."

Why is mainstream the ONLY truly considered mode of education? Is the bill hoping to facilitate the closure of specialist units in Wales, as well as ignoring the needs of those children who need to be educated outside of school? This is a bill for children with al types of Additional Learning Needs! Not for just mainstream children who may have fallen a little behind due to messing about in the classroom. These children by definition have learning needs that are different from the norm and so ALL learning environments should have been considered in this Bill, including how children in alternative learning environments can adequately access assessment and therapy provision. Some of these environments may encompass the parental home, hospital, youth offending facilities, residential care homes etc.In failing to consider these children or the full range of learning environments the Welsh Government seeks at a stroke to deny many extremely vulnerable children access to a state education.

EHE Guidelines.

It was very unfair of the WAG to ask parents to respond to this consultation without first allowing them to view the new updated Elective Home Education Guidelines, despite a direct request from the Home educating community to the Minister that they should be allowed to do so.

NHS and School Staff cannot deliver

No thought has been given as to how staff will cope with the massively increased workload without considerable extra funding.

Increased conflict

The Bill almost demands that parents and schools will be forced into legal battles directly with each other. This will cause an inevitable total deterioration of positive relations that will negatively impact upon children's well being. It will push up insurance costs considerably. A failed Judicial review may cost a school £150K and under the terms of this Bill even the smallest primary will be expected to foot the bill of at least one per year.

Note – In the case of decisions reached by schools that a child may or may not have additional learning needs,

- (a)A parent may request a local authority reconsider the matter.
- (b)In the event of a plan existing, might request a local authority reconsider the terms of that plan i.e. whether to revise the plan

The power only exists in the event that a plan has actually been issued (see S19).

I cannot emphasise enough that teaching staff are not clinicians, and nor should they be expected to be. Many severe additional learning needs and even medical conditions may be totally missed under the terms of this new legislation. (HFA currently takes 7 years to diagnose in wales and this will exacerbate the situation, not improve it)

A new duty

S6 introduces a new duty to have regard to:

- “(a) the views, wishes and feelings of the child and the child’s parent or the young person;*
- (b) the importance of the child and the child’s parent or the young person participating as fully as possible in decisions relating to the exercise of the functions concerned;*
- (c) the importance of the child and the child’s partner or the young person being provided with the information and support necessary to enable participation in those decisions.”*

This is an excellent introduction that is badly let down by the fact that parents will be denied the chance to be informed and thus support and advocate for those aged 16+. This is in practical terms a denial of Young People's rights as at this age the choices made are life changing and so many with Additional learning needs require support in making the right choices. It is also a major concern for those afflicted by mental health issues, as this is the age when serious conditions such as bipolar or schizophrenia tend to peak. To deny parents a say when young people are at the most vulnerable due to conditions like these that they will ever be over an entire lifetime is morally wrong and utterly repugnant to me.

Circumstances in which the duty to issue a plan does not apply –

- (a)*If a young person does not consent;*

- (b) *If a request is made but it is determined that the child or young person's needs have not changed materially since the decision was made;*
- (c) *There is no new information that materially affects the decision.*

Given that schools and college staff are not clinicians, there will definitely be instances where an ill young person refuses consent long before anyone realises just how ill they really are! A worry when teen suicides are ever rising in the UK.

In Summary none of the right lessons have been learned from the English transfer to EHCP's and instead a short termist, conflict ridden solution that ignores a swathe of children with additional learning needs is being introduced. This is very disappointing. In future only those children who have rich parents will be able to have their needs met, condemning many to a needless adulthood of dependency upon others.

Thanks

Steph Shobiye

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

By email: SENReforms@wales.gsi.gov.uk

Dear Sirs

RE: DRAFT ADDITIONAL LEARNING NEEDS & EDUCATION TRIBUNAL WALES BILL

We have already made our views known to the Welsh Government in respect of the draft Additional Learning Needs & Education Tribunal Wales Bill. Some of the concerns have been raised in the Welsh media. The purpose of this letter is to provide a series of representations based on the views and experience of this firm's Education Department as a whole. Some of the points have been made previously.

Sinclairslaw became involved in education cases in England and Wales since 1997. The Head of Department (a proud Welshman) was involved in education law cases as long ago as 1994. We set out our views based on concerns that many parents and schools have raised with us over this period. We also focus on the type of practical difficulties that we envisage will occur.

There are a number of points that we believe should be applauded within the Bill. Introducing support for young people up to the age of 25, such that they will receive a plan, is welcome, as is the right that parents and young people will have to launch any challenges in respect of a plan before the SEN Wales Tribunal. It is absolutely right that those who may have special learning needs have a forum within which to resolve their disputes and it made no sense to limit the jurisdiction of the Tribunal to the age of 19. The extension of the jurisdiction to the age of 25 is a welcome change.

In relation to the unified planning process, envisaged to increase the participation by children and young people, we believe that the objective is a sound one but in practice the resolution of disputes in respect of only the educational element is something that we believe ought to change. Young people with learning difficulties have needs that cross the boundaries between education, social care and health. We see within the English Children and Families Act 2014 a statutory power and indeed duty upon health departments to resolve disputes that may exist pertaining to NHS services. The idea that that NHS must agree to a service before the provision is enforceable is a concern. Indeed, it renders redundant the idea that this is realistically going to become a unified process from which a parent or young person can ultimately have their difficulties resolved.

Also at:

Young people who may have behavioural problems associated with their disability will almost certainly have social care difficulties. It is important that needs are not compartmentalised, such that one's educational needs are looked at in isolation from one's social and health care needs. Again, if one is educating a young person properly one would envisage that a young person is capable of generalising skills across settings, such that the problems that may be experienced at home or outside of school need to be fully recognised and resolved. The Tribunal will not be tasked with resolving social care issues and as we say in relation to health, this is an area of concern. We would suggest that the legislation should properly incorporate each of the needs, providing a forum to resolve the dispute, without compartmentalising the need.

In so far as the term, additional learning needs, is concerned, one does not have any significant view in relation to this, save, that the term additional, may to some appear unnecessary. The term 'special' appears to be a term that we have not recognised amongst the population of our clients to be a term that has caused any concern whatsoever. Indeed, to some, describing young people as special may appear to be gentler. For example, a parent tasked with explaining to their child that they have autism can often be difficult. Explaining to a child that they may have additional needs may, to a child, appear somewhat burdensome. Contrast that with explaining to a child that they have special needs, indicating that they are after all special and should celebrate being unique. This highlights the strengths not the just weaknesses.

We do not consider that the Bill is robust enough. Neither do we consider that it is safe to abolish the statutory assessment process. The assessment of young people is the most critical stage in understanding and thereafter addressing the needs of a young person with disabilities. It is a process adopted not only in England and other European countries but largely across the Western world. In the US, for example, The Individuals with Disabilities and Education Act recognises and puts at the forefront the importance of undertaking proper assessments. Parents in the US can, for example, play an active part in suggesting what particular tools of assessment and what particular experts ought to be involved in addressing the needs of their child. The idea that we leave the prescribed assessment that we currently have in the law to teachers who will be expected to follow general guidance is, in our respectful view, misconceived and unsafe. This firm's CEO, [REDACTED] has already made his view along with the views of those he represents known in the media.

Teachers, we would respectfully suggest, need to undertake the tasks that they are trained to do, namely, to provide the excellent support to young people in order that they may learn. They are not clinicians and neither should the law expect them to be.

In the Wales Policy Forum the SENCO's present made it known that they were concerned that they would have to move to a non-teaching role in order to administer this legislation. This puts them in the same position as the local authority officers who, at present, are tasked with dealing with this. However, a teacher/SENCO, will not have the same level of administrative or clinical experience that a local authority has. Neither will they have at their disposal the kind of experts that are at the disposal of a local authority. We cannot, for example, expect a teacher to diagnosis or set out learning provision for a child who may have complex multi-faceted difficulties. These may range from educational

issues to health. We certainly do not accept the argument raised in the media by the Welsh Minister for Education that this area of concern is addressed adequately within the Bill in which it is envisaged that schools that consider themselves incapable of undertaking these kinds of assessment can send it up to a local authority to decide. We raise our concern in this respect for the following main reasons.

1. Parents should have a close relationship with their child's school built upon trust. If they seek to challenge a school's view - that trust may be jeopardised. The parents may have a perception that schools that send the issue up to a local authority lack the necessary skill and the trust in the relationship can be damaged.
2. The legislation, in any event, envisages that when a local authority decides what a child needs, it can remit the matter back to a school to carry out the same. In our respectful view, that cannot be right and the legislation should build into it appropriate safeguards. For example a school when sending the matter up, should be expected to first agree to a local authority's direction before that direction is made. Otherwise it may lead to a view that schools are being expected to do something which they have already expressed they are incapable of doing. We can see no sense in the argument that the safeguard against inadequate assessments is to suggest that the current system of a local authority assessment will be engaged as a secondary decision maker when this legislation is being made in order to bring about change. It is analogous to saying that the current law should continue and in our respectful view this makes no sense.

We have also made the general point that it is wrong to place such an administrative burden upon our schools. We remind ourselves that the law has already significantly changed in Wales, which actually puts schools at risk of being issued with warning notices if they do something that a local authority disagrees with (The School Standards Organisation Act). Schools may be very worried about making the wrong decisions or may feel concerned if they send matters up to a local authority which might expose them ultimately to criticism that they are not doing something properly. Schools should not be expected to adopt the role of county hall representatives. They are professional teachers. From a costs perspective we doubt that to expect SENCO's to undertake the task of drafting plans etc. that is currently the task of administrators within a local authority, will result in a costs saving, when more likely it will be the opposite. Highly specialist teachers will now be required to undertake these administrative roles. Further teachers will now have to be hired to take their place in the classroom. We fail to see how this can be economic.

In respect of question 3 - High aspirations and improved outcomes - we would respectfully submit that this has nothing to do with the legislation but more to do with its implementation. The key issue that is missed is that we doubt that this objective can be achieved if we are expecting teachers to do what the law currently expects Educational Psychologists (EP's), Speech and Language Therapists (SLT's), Occupational Therapists (OT's) and doctors to do.

We welcome the idea that there should be increased collaboration between young people and the agencies that are entrusted to afford support to them. However, we expressed concern about parents losing any opportunity to play a part when a young person turns 16. If the legislation will not expect the collaboration between schools, EP's, clinicians, SLT's, OT's etc. we cannot see how it can possibly be

[REDACTED]

envisioned that this legislation will increase collaboration. We can with confidence express that this is a view that is shared amongst many practitioners in both education and the law.

We welcome the idea that one should avoid disagreements and offer early disagreement resolution but are deeply concerned that the legislation does not envisage that parents should play a part at a critical phase in a post-16 year old's life. There are three educational stages in a child's life that are critical. The starting school stage, the moving between primary and secondary stage, and the moving beyond school stage, which to some may seem the most critical. Parents often have an important role to play and they can give sound advice to their children. Many of us practising today in professions may not be in the position that we are in if we had ignored the views of our parents at this critical stage. It is important to involve parents through the entire period within which young people are children (as referred to by the UN Convention on the rights of the child).

We do not agree that important changes to the way in which an assessment can be conducted should be introduced through amendment to a code of practice, as opposed to the safeguards that are built in to amending law. The current legislation suggests that the Welsh Ministers may revise a code of practice and may impose requirements. We would respectfully submit that this will potentially lead to too much State interference, particularly if judicial interpretation of the legislation is something that does not appeal to politics.

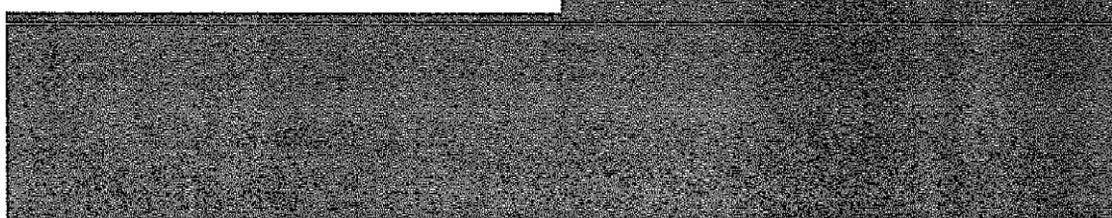
Our overall view in relation to this legislation is that assessments of young people being left to schools will mean that those who are sufficiently well off will be more able to obtain expert reports at their own expense. This makes it more likely for them to challenge and secure provision than those who can ill-afford to instruct such experts. A two tier assessment process is likely to emerge. We would respectfully submit that this would achieve greater inequality for the people of Wales.

We cannot see why change is needed for changes sake. Neither should we, in Wales, ignore the voices of the large population of people, as well as experts, that live in England who have played an active part in reforming the law, bringing about The Children and Families Act 2014. This Act has made improvements but may not have gone far enough. We would encourage the Welsh Ministers to think again in relation to this legislation, adopting most, if not all, of The Children and Families Act 2014 and then improving upon it.

It is simply not fair that children and young people in England will have better assessments and rights than the people of Wales.

Yours faithfully

SINCLAIRSLAW



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Mrs Sandra Welsby

Organisation (if applicable): National Day Nurseries Association (NDNA) Cymru

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NDNA Cymru agrees that the definitions of ALN appropriately reflects the intended focus of the 0-25 age range, however as the definition of ALN notes that a '*child of compulsory school age has a learning difficulty or disability if he or she has a significantly greater difficulty*', we would question how 'significant' will be gauged from a local authority perspective and would suggest that guidance is available to support this judgement at a local authority level to ensure equity of care and support for all children and young people in Wales.

NDNA Cymru believes that the ALP definition requires further clarity with regards to the non-maintained sector for example:

(3) ... "*nursery education*" means education suitable for a child who has attained the age of three but is under compulsory school age.

We recommend that suitable is better defined e.g within an education funded non-maintained setting.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NDNA Cymru is concerned that the draft bill does not place enough emphasis upon the non-maintained sector.

For example s 7(2)(c) makes reference to head teachers and proprietors of schools, we believe that proprietors and leaders of registered non-maintained provisions should also be included within this sub section.

NDNA Cymru is concerned that s 12 does not provide adequate emphasis upon the non-maintained sector, and believe that further clarity is required in order to outline the relationship between the local authority and the non-maintained sector with regards to the development of IDPs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NDNA Cymru agrees that in principle the draft Bill will help to ensure that the interests of children and young people with ALN will be protected and promoted, however NDNA Cymru believes that all relevant parties including the non-maintained sector must be included in order to achieve this.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

NDNA Cymru agrees that the draft Bill 'if amended to include the non-maintained sector in line with our comments' will provide an easier platform for better working together practices, and will subsequently ensure a easier process for children and families.

Please refer to our comment in Question 3 regarding the non-maintained sector.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

[Redacted]

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

NDNA Cymru believes that there within the Draft ALN Code there are some inconsistencies with regards to the non-maintained sector:

138 - Children under compulsory school age – non-maintained settings

Within this section the code outlines that parents are open to inform the local authority if they have concerns about their child, however within items 204 and 321 it is recognised that the case of a child within the non-maintained sector may be brought to the attention of the local authority by the setting, therefore in order to ensure a clear consistent message throughout the code NDNA Cymru ask that non-maintained settings are included within ‘*138 - Children under compulsory school age – non-maintained settings*’

NDNA Cymru also believes that in order to fully support the implementation of an IDP and subsequently the children and families involved, there should be a requirement for local authorities to share the IDPs with the non-maintained settings children are attending.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

As highlighted throughout our response we would ask that the non-maintained sector is recognised as an equal contributor providing care and support to children and families with ALN.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):
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	Third sector organisations	<input type="checkbox"/>
	Individuals	X
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree		Disagree	X	Neither agree nor disagree	
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Supporting comments

Two huge questions have been merged into one here!

The definitions are not altogether very different from those we have now. However they are ambiguous and subjective and will need to be backed by examples. What is ‘significant’? The previous code of practice did describe various forms of SEN. Under this definition it is not clear, for instance that barriers to learning, such as social, emotional and behavioural difficulties would be seen as an ‘additional learning need’ (although this is given as an example in the ‘easy read’ version).

The concept of LAs being responsible for ALN up to 25 is of huge concern to me as I am not sure that this has been costed nor have all the implications been considered. It might have been pared down a little from the version that was in the Education (Wales) Bill which was even more frightening in that it covered any young person in education or training or who wished to return to education or training. My concern is that in not having a clearly defined graduated response this Law will both financially, and in terms of capacity, be unworkable for County Councils. Whilst the new law was planned to be less adversarial, it seems that now Warnock’s ‘20%’ – both children/young people or their parents – can call upon the LA to deal with disagreements at every stage and even access Tribunal. This will lead to a huge potential increase in workload and financial commitments for the Authorities through both the increase from the ‘1 – 2 %’ to the ‘20%’ but also in the doubling of numbers by the increase to 25. Originally I had understood that the purpose of changing the current law was to focus on the vulnerable 2% and make robust processes for multi-disciplinary planning for them. I do not think the complexity of the 19 – 25 age group has been considered. Mental Health issues increase significantly within that age group. Our LAs may have to meet the costs of provision for those young people without the necessary tie-ins from Health and Social Services. Our penal systems include a high proportion of young people whose Speech and Language difficulties have not been identified in the past. Now LAs will have to assess and, again, with no commitments to the Act from Health may well have to provide Speech and Language Therapy Services. My concern is that there are many unidentified needs out there and I believe that

young people (indeed ALL People – why stop at 25?) should have access to education and support services should they so wish; however, I do not think that the Local Authorities are necessarily the authorities that should take this on. The needs of the older population (school age plus) should continue to be met at an ‘All Wales’ level in my opinion. If a new Act had focussed on children and young people up to school leaving age and committed Health Authorities, Social Services and Education to work together under unified legislation and ‘got it right’ for that age group, then perhaps we could have thought of how this could be extended to others at a later stage. There might have been a possibility for this as Paediatric services in Health are discrete. Following school age, however, all sorts of new networks will have to be established with other services. Unfortunately the Act seems to have no ‘teeth’ to ‘encourage’ Health Authorities to provide services, even if advised by Tribunal.

Again, in terms of the Act meeting the needs of the ‘20%’ (ie everyone from ‘the register’ and school action as well as school action plus and statutory assessment) I can see the FE colleges referring a host of young people for assessments of, say dyslexia, prior to applying to University and as part of their submissions to Student Finance Wales for Disability Grant; a cost which is currently borne by parents.

This is all coming at times of severe cuts.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I have found the work I have done involving PCP approaches and IDPs as generally very positive. However; again I see that the scope of this needs to be clarified with clear criteria for when we move to LA involvement. As an educational psychologist I am also concerned that the work that I do at the ‘universal’ and ‘school action plus’ levels (and that is the bulk of my work) may be seen as non-statutory if our work is seen in the bracket of the ‘referral on to the LA only’. In times of cuts this will inevitably result in cuts to Educational Psychology services as Local Authorities will focus on statutory duties only. I would think that Advisory Teachers would be equally concerned.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Again I think this might be the case if the focus of all the legal ‘tools’ was on the most needy (the current statutory assessment population). As it is, I think there is a potential for schools and Local Authorities to be drawn into activities which are time- and finance- greedy for a large number of children and young people. I love the idea of the utopia – person centred multi-disciplinary planning - all together and all collaborative – and disagreement resolution services stepping in when necessary - but I just cannot see how, in this financial climate, it can be done for 20% of the population of young people from 0 – 25. Where I have been involved in such work it has been successful but without some guidance as to a graduated response I could see a future where that can be no direct work with young people because everyone is in a meeting! I fear that the only people who may be excited by the scope of this act will be solicitors! I’m sure it may all be clarified when the huge ‘gaps’ in the Code are filled but at present, without a clearer vision of who is really meant to benefit from the more complex processes, schools and professionals alike have concerns that this will be unworkable.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

I think that the idea of everyone sitting around a table, including the young person, is far better than everyone submitting their advice in isolation. **HOWEVER**, without legally tying Health and Social Services into the process this may remain a dream. There also needs to be emphasis on improving capacity to meet children and young people’s needs within the schools and colleges. As written it seems that ‘the buck’ can be passed on the LA if the schools/colleges do not think they can meet a young person’s needs. This could have been a historic opportunity to create an education, wellbeing and health Act for children.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

I agree with the rhetoric but am concerned that these legal processes are available to too wide a group (again referring to the ‘20%’). It is unfortunate that the Code has gone out in the form that it has because I feel that the message about Person centred approaches leading to better outcomes for CYP has been lost and what has gone out actually looks adversarial with almost an expectation at every step that there will be a need to refer on to the Local Authority or to Appeal.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

I have not read the Impact assessments in detail but fear that the financial cost of this Law has not been calculated - both in terms of losing the graduated response (or at least ‘looking’ as if that has been lost) and certainly in terms of the raising of the age to 25. There will be training needs costs to, for instance, extending psychologists’ capacity to assess and work with this older age group.

As it stands I think the Draft Code may have caused more harm than good. A time frame document that I saw was frightening in that it suggested all statements being converted into IDPs in one year rather than at transition points.

I welcome and applaud the attempt to produce ‘Easy read’ documents.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Ann Sivapatham

Organisation (if applicable): Epilepsy Action Cymru

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
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Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Age range

Epilepsy Action Cymru welcomes the introduction of the 0 – 25 age range. This should oversee the transition of young people into adulthood, further education and independent living.

Definition of an additional learning need (ALN)

One in every 220 children will have a diagnosis of epilepsy, and upto 50% of children with epilepsy underachieve academically in relation to their ability. We are extremely pleased to see that the draft Bill includes provision for children and young people with a disability. This is so important, and will ensure that all of our children are supported to achieve in their education.

The inclusion of children and young people with disabilities was a huge win for the Children and Families Act 2014, and we are glad that Wales will also support the learning of those with disabilities.

Epilepsy Action Cymru would like to raise your attention to the Scottish ALN support model. In Scotland, a child or young person is said to have ‘additional support needs’(ASN) if they need more – or different support – to what is normally provided in schools to pupils of the same age. As it doesn’t just apply to children who have long-term learning difficulties or disabilities Epilepsy Action Cymru believes this would be a solution for children and young people to access the support they deserve.

The term ALN could broaden the scope and mean more children and young people are judged to have an ALN. For example a child who misses the majority of a half-term of lessons due to a medical condition such as epilepsy will need additional support to catch back up to their peers.

Individual development plans

We welcome the introduction of Individual development plans and the description of what will be included in the plan, and the information regarding the need to review the plan.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We appreciate that the draft Bill has sought to address the need for a unified planning progress, but we believe that the Bill can go further.

In addition to legislation we would like to remind you that:

- Joined up education and care plans are key for the multi-disciplinary team supporting the child or young person.
- Professionals need to be equipped with appropriate resources to better share information and create better liaison between government agencies. Assignment of responsibilities across all will mean follow-up of actions are carried out.
- Professionals to be aware and to have the ability to appropriate information as well as to signpost to information. This will ultimately create better informed patients and parents/carers.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

It is a good step. But funding, training and work is needed to ensure that the eventual Act is implemented fairly and robustly across all required educational institutions throughout Wales.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

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Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Epilepsy action Cymru are pleased that the Bill sets out the rights of those involved in the process to avoid – and to resolve disagreements, namely through access to mediation.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

While it is good to see the inclusion of disability within the Bill, we do not believe that the supporting documents make it clear that a child or young person could qualify for help and support through an Individual Development Plan due to their disability alone.

We believe that case-reports and case studies could be used to illustrate different scenarios where a child or young person might be eligible for support, would really improve the information that you have.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Derek Tiley

Organisation: Cardiff School of Law and Politics

e-mail:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input checked="" type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Please see my response to Question 7.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Please see my response to Question 7.

Question 3 – High aspirations and improved outcomes

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Supporting comments

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Supporting comments

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Please see my response to Question 7.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

- My first comment is that there is very little detail on the face of the Bill as to how the proposed system will actually work. The Welsh Government (WG) proposes that the detail of the workings of the system in practice will be given in Regulations and a new Code of Practice (CoP). Unfortunately, no Regulations were made available to aid the consultation process and only an initial draft CoP was provided for illustration purposes only. Not only was the draft CoP clearly in the very early stages of development it was also incomplete with whole sections (e.g. transfer of IDPs and the transition process) missing.

Given the lack of detail of in the Bill itself coupled with the lack of a finalised CoP and the Regulations clearly setting out the actual mechanisms whereby the WG envisages that the Bill will be enacted it is, unfortunately, impossible to give a meaningful response to this consultation. However, we have what we have in front of us and have no choice other than to work with what we have.

- At the very start of the SEN reform process when the 'Statementing or Something Better' was carried out in 2007, the WG categorically stated on numerous occasions that there would be absolutely no erosion of parental rights.

Current legislation (Education Act 1996, Schedule 27) gives parents the right to name (i.e. choose) the maintained school that that wish their statemented child to attend and the LA must name that school in Part 4 of the statement unless at least one of three caveats are met. If an appeal is made by a parent to the SENTW involving Part 4 of the statement where an LA has refused to name the maintained school of their choice the Tribunal must consider Schedule 27 and if it finds that none of the 3 caveats have been met it must order the LA to amend the statement and name the maintained school that the parent has chosen.

This is a right that parents frequently have recourse to. In the period 2002 – 2014 inclusive, SENTW heard 1,292 appeals. The most common appeal was, unsurprisingly, 'refusal to assess' with 358 (27.7%) appeals. Just behind in second place, and the most common appeals against the actual content of statements, were appeals involving Part 4: there were 339 (26.2%) such appeals during the period. Trailing in third place were 'Part 2 & 3' appeals of which 223 (17.7%) were dealt with.

This clearly demonstrates that parents value their current right to choose to the maintained school for their statemented child to attend and avail themselves of SENTW's power to overturn LA's erroneous decisions with

regard to Schedule 27.

However, the wording of Section 26(4) in the draft Bill would seem to remove the right of parental choice with regards to naming a maintained school. True there is nothing to prevent parents expressing a ‘preference’ for a maintained school but there is no duty comparable to Schedule 27 for the LA to name it. And although a parent can appeal [Section 40(2)(e)] against the failure of an LA to name their preference there would seem to be nothing in the proposed legislation which would actually enable them to overturn the LA’s decision. If this is correct then it would represent a serious erosion of parental rights and fly in the face of assurances previously given by the WG.

Whilst on the subject of Section 27 it seems strange that despite being entitled **Duty to admit children to named institutions** the Section only gives LAs the power to name schools and not other institutions such as Further Education colleges and Independent Specialist Colleges. In addition Section 40 does not give parents or young people the right to appeal against the failure to name an FE college or an Independent Specialist College.

- Another right that parents currently have is access to statutory assessment process which guarantees the involvement of social services, health and an educational psychologist (EP). The draft Bill would essentially give schools and LAs the option of ‘cherry picking’ whether or not to involve these in an IDP assessment. Given the cash-strapped situation of LAs in this period of austerity it is not difficult to imagine that if there is not a statutory requirement on LAs to arrange an EP assessment then it won’t except if absolutely necessary which would lead to a reduction in LA owned EP services. The result would be a diminution in the rights parents have at the moment to guaranteed EP involvement in the assessment process.

It would also mean that should schools want to involve EP services in the teaching of children with SEN they will have to commission them from the independent sector.

- Parents currently also have the right to access a statutory assessment process that must be carried out within maximum deadlines (NB: there is nothing to stop LAs carrying out the various parts of the statutory assessment process quicker than laid down in legislation). The processes as set out in the draft CoP do not always have deadlines (e.g. ‘as soon as possible’) and when it does stipulate a deadline they are not always realistic (e.g. preparation of an IDP within 7 [there seems to be an assumption that maintained schools won’t have to prepare IDPs for children with complex and/or severe need which I’ll discuss below] or 10 weeks).
- There is a historical reason for why the current legislation stipulates the involvement of certain professionals in statutory assessments and why deadlines have been set in law for **all** stages of the process and that is because prior to legislation assessments were of poor quality and took a very long time to complete if, indeed, they were ever completed. We are in danger

of forgetting the lessons we have learnt from history.

- For consistency and ease of use among different institutions and bodies I think it is essential that there is a fixed format to the IDP set out in legislation. The concept of each early years setting, school, FE College and LA producing their own variations based on mandatory and optional headings is very concerning. Note the issue that are coming out of England regarding EHC Plans and that only involves LAs. I would suggest a slight tweaking to the current statement would produce an appropriate document.
- I am concerned that there may be an assumption that mainstream schools will not have to produce IDPs for children with complex and/or severe needs. However, given the high degree of delegated SEN funding to schools where in many cases 90 to 100% of the funding may be effectively delegated to a school for a given child the LA will now expect mainstream schools to prepare and maintain IDPs for these children. Also, in such circumstances children who fall into this category will have to go through the usual admission procedure even though they have complex and/or needs since the IDP will be maintained by the school and only an LA can name a school thus adding the erosion of the parent's right to express a choice for a mainstream school discussed above.
- One of the stated purposes of the reform process is to reduce bureaucracy but this is difficult to see for schools. Currently, for each child at school action and school action plus a school produces and maintains a non-statutory document, i.e. an Individual Education Plan (IEP). An IEP is a relatively simple form usually comprising a maximum of 4 sides of A4. However, preparing an IDP "is a complicated and technical matter" (Page 66 of the draft CoP) and even the least complicated of IDPs will clearly take more time and effort than an IEP to prepare and maintain thus automatically increasing bureaucracy in schools. And if LAs do direct schools to prepare and maintain IDPs for children with complex and/or severe needs then there will simply be a transfer of more bureaucracy from LAs to school.
- Also, IEPs perform a different, but complementary function to statements: the former looking at the short term, and updated at least 3 times a year, and the latter the long term. Are the IDPs supposed to include both short and long-term objectives and targets? In which case all IDPs will need reviewing more frequently than once a year. Or will they only include long-term targets and objectives? In which case will schools need to continue to use IEPs or a similar document to deal with the short-term? Either way an increase in bureaucracy for maintained schools seems inevitable.
- Some of the above raises the real possibility of conflict between schools and LAs. It is unclear to me as to what sanctions an LA can impose on a school if it unreasonably refuses to prepare and maintain an IDP (withhold funding?): and, similarly, what appeal process is there for a school if it feels that it is being unreasonably directed to prepare and/or maintain an IDP? It is easy to envisage situations where parents and children could be caught in the middle

of such disputes.

- The Mental Capacity Act 2005 (MCA) applies to everyone aged 16 and over (with very limited exception to some 16 – 17 year olds. So once a child turns 16 they are presumed to be capable of making their own decisions. This can come as a shock to parents of children with severe/complex needs who will have been taking decisions on their behalf where their child cannot not decide got themselves before their 16th birthday when, of course, nothing magic happens to the child's needs or abilities. Unfortunately, the MCA has been often used by public bodies to exclude families from decision making from decisions once young people turn 16 and come under its remit. Perhaps with this issue in mind when the SEN reforms were brought into force in England the Children and Families Act 2014 (CFA) modified the approach to decision making under the Act. Section 80 of the CFA allowed the creation of regulations which essentially mean that in most cases parents will retain decision-making powers under the Act until the young person becomes 25.

Section 80 of the CFA is entitled **Parents and young people lacking capacity** : however, Section 53 of the draft ALN Bill is entitled simply **Parents lacking capacity** and draws heavily on the wording in Section 80 of the CFA. The essential difference is the deletion of all references to young people. In other words it would seem that the WG has made the conscious decision not follow the example in England and extend parents' decision making rights for their children up to the age of 25. I believe that this is very troubling and could lead to very difficult situations and would urge the WG to reconsider its position.

- I am also more than a little confused on the interplay between the importance of the voice of the child and Section 9 of the EA which basically states that unless certain caveats are breached a child must be educated in line with the wishes of his/her parents while they are at school up to the age of 19. In the case of a situation where there is a difference of opinion between a child and their parents over an aspect of their education it is difficult to see how a school, an LA or the Tribunal could do anything but side with the parents' wishes. It feels as if in cases like this gathering the voice of the child and encouraging child participation in the decision-making process is a bit of a tick-box exercise as the parental wishes will always prevail.
- It also seems astonishing, irrespective of the existence of Section 9 of the EA, that the draft CoP does not include 'parental wishes' as one of the mandatory heading in the production of an IDP.
- The situation with the proposal for the Health Service is lamentable. Parents and young people must have access to an independent appeals process which can direct the relevant health services to provide the provision that it directs to be included in an IDP.
- It is also important that the SENTW's powers are extended so that it can police and enforce the directions that it imposes on LAs, schools and other

intuitions.

- I also believe that parents should be able to access advice and support services which are truly independent of LAs and not finance by them and which can ensure the provision of Independent Parental Supporters.
- I also note that LAs have had a statutory duty to provide independent disagreement resolution services since 2001 but they are unwilling to promote them to any extent outside of the letters they are required to send as part of the statementing process. The reason for this is cost particularly in regard to disputes in school settings. I can see nothing in the draft Bill which will change this.
-

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Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
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	Work Based Learning organisations	<input type="checkbox"/>
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	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree with the principal of the use of one term, ALN, across the whole age range 0 – 25 rather than the use of two. All children and young people with ALN should be entitled to have their needs identified, assessed and provided for and having a clear definition of ALN makes this more likely to occur.

However, we cannot agree that the ‘definitions of ALN and ALP set out in the draft Bill appropriately reflect the intended focus on educational needs’.

The new ALN term is intended to replace both SEN and LD/D yet, in the draft Code of Practice, the somewhat confusing and circular argument is used by having to establish whether a child or young person has ALN by establishing whether they have a LD/D – a term it is replacing. Furthermore the definition of ALN now corresponds to the previous definition of SEN and merely repeats the original definitions from earlier legislation:

‘A person has Additional Learning Needs if he or she has a learning difficulty or disability which calls for Additional Learning Provision’ and ‘a significantly greater difficulty in learning than the majority of others of the same age’.

In similar manner we are concerned that what constitutes ALP is not adequately defined in the Draft Bill and accompanying documentation:

‘Additional Learning Provision means... provision that is additional to, or different from, that made generally for others of the same age in ... mainstream maintained schools in Wales’.

Clearly these are not precise definitions and any definitions used should allow for proper discrimination of levels of need. The current proposed term spans the full range of need from those requiring a low level educational assessment and intervention to children and young people with the most severe and complex needs requiring comprehensive multi-disciplinary assessment and highly specialised special school placement. As a direct result of this we have concerns in relation to how definitions or criteria will be used to demarcate the boundaries between IDPs that schools or FE institutions should hold responsibility for and those for which the local authority will be responsible. This issue needs to be addressed.

In principle, introducing a common format to extend from school to post 16 makes sense.

This will facilitate transition and promote consistency. We do have major concerns however that the widening of the age range to 25 has massive capacity and resource implications for local authorities. Local authorities simply do not have either the resources or the capacity to manage the implied responsibilities for this greatly increased cohort of young people. In particular, there are significant resource implications for local authority services which play a central role in these processes. An exemplar, from our LA perspective, is that the 0 – 25 population is almost double that of the 3 – 16 population. We currently have over 70 Key Stage 4 leavers with Statements of Special Educational Needs and would envisage that these would be the learners for whom the LA would maintain an IDP under the new proposals. Currently, for the majority of those KS 4 leavers, the responsibility for maintaining the Statement lapses, however it is likely, under the new proposals, to remain the responsibility of the LA.

As regards Post-16 specialist placements, the draft Bill provides for the current duty on Welsh Ministers to secure specialist post-16 education for a child or young person where the IDP indicates this is necessary to meet their needs to transfer to local authorities. There is a need for further consideration of how this will work in practice particularly when it is also being envisaged that specialist Careers Service will no longer be involved in the process developing Learning and Skills Plans for this group of learners. The transition process needs to be managed carefully and local authorities given the necessary time and resources to adapt. The costs associated with supporting these pupils can be substantial.

As regards including the age range to include 0-3, this will reflect some preventative and early intervention work that is already being carried out across LAs. However, with these proposals certain fundamental questions still need to be asked: Will IDPs be adopted with this age group as well? While a single document that includes the young child's needs from the start would be useful, the practicalities would need to be considered – who would be responsible for writing it when children are not in educational settings in this age range? Would parents have the same right of appeal here? If parents challenged the provision, who would it be referred to?

Whether concerning the 0 – 3 age range, 4 – 16 or 17 – 25 the ultimate concern is regarding how responsibility and governance work. The local authority's responsibility is a key issue here and it is our strong view that it is both unreasonable and unworkable to extend the local authority's statutory responsibilities into areas for which they hold no overall responsibility for governance or funding.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We welcome the emphasis on increased participation by children and young people and involving them in the decision making process through the use of Person Centred Planning and see this as a positive principle to be operated throughout the implementation of new procedures. It is a useful approach to help understand a child or young person's perspective, any potential barriers to learning and to help set realistic and appropriate targets. The understanding gained can also help to select or adjust the approaches and provision harnessed to address the identified needs and achieve the targets set. However, it is not in itself an adequate framework to manage the assessment, planning and provision processes for children and young people with ALN.

We do not agree, however, that the Draft Bill, as constituted, would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs).

Firstly substantial training will be needed for staff in schools, governing bodies, local authorities, challenge advisors, Estyn and other partners in relation to IDPs. This is the cornerstone of the legislation so it is essential that all staff are fully and appropriately trained. There will be a significant impact in terms of training school staff in particular. The aim of the IDP process should be to create a simple and accessible process to support, and provide clarity, for parents, children and young people and practitioners involved.

In our view the framework and purpose should be based firmly around identification, assessment and provision for ALN and should incorporate a core emphasis on a graduated response to support, assessment and provision for ALN. One issue is that the Draft Bill and accompanying documents seem to lack a sufficient focus on education and educational needs and provision. In contrast to the lack of clear framework and processes in the Draft Bill, the previous Education Act and accompanying Code of Practice provide huge specificity and clarity about the underpinning processes of assessment and provision at all levels from a school based IEP to a statement of SEN.

The Draft Bill and accompanying documents do not specify in enough detail and range and availability of specialist support services that are needed to support schools, FE institutions and other educational establishments in delivering the graduated response. The graduated response sets out a conception of a school-led and initiated assessment process that starts with the expertise of staff dealing directly with the pupil but gradually proceeds to engage with more specialist staff, initially within the school but ultimately from external support services. All staff involved thus contribute to developing a clear understanding of a child's additional learning needs. Decisions to engage more specialist assessments and interventions are based on either lack of positive response to the current plans and provision or in response to evidence about the severity and complexity of the additional learning needs.

Educational support services are crucial support services that operate at school action plus and statutory levels and it is our view that these contributions should be properly referenced and specified through the Code of Practice.

The current proposals should set out in far greater detail and structure how assessment processes at all levels should underpin and contribute to the development of IDPs.

We would wish to make a strong point that the proposed timescales for the production of IDPs, while probably reasonable for schools meeting lower level additional learning needs, such as those encompassed by the current IEPs, are impossible for either schools dealing with more severe and complex additional learning needs or for local authorities in all cases. At higher levels of severity and complexity schools will need to seek external assessment and intervention to inform their understanding of a child or young person's additional learning needs and this will take time. The same would apply to IDPs being developed by LAs.

The suggestion that IDPs should be issued without core pieces of advice undermines the principle of working in the child or young person's best interest. If ALN are not properly understood they will not be properly provided for. We also wish to express a strong view that, at least at the level of the local authority IDP, there should be absolutely clear specification of the required advice providers who would contribute to the multi-disciplinary assessment to inform an understanding of a child or young person's additional learning needs.

On a more positive note, the proposal would enable the LA to challenge its schools more robustly, where appropriate, regarding IDPs and meeting ALN. There will, however, need to be systems for monitoring the impact of IDPs and interventions/ALP in place. It would be helpful to identify who would be involved in the QA process and not include only LA specialist support staff but also Consortia Challenge Advisors and come within the remit of Estyn the inspection framework for schools.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree that children and young people's best interests should be protected and promoted, but would argue that the central focus of the question should be on whether the Draft Bill enables children and young people's educational ALN to be properly identified, assessed and met with the appropriate ALP. Please also see our comments under Questions 1 and 2 above.

Without a clear framework, structure, processes and accountability, including clear descriptions of how and which assessments should be made and carried out there can be no confidence that children and young people's additional learning needs can be properly understood. And if these needs are not properly understood, there can be no confidence that they can be provided for or met properly.

We would note that the current legislation and procedures, if properly carried out, do protect and promote the interests of children and young people with additional learning needs, principally because they are highly structured and specified and focussed on identifying, assessing and meeting children and young people's ALN.

Children with severe and complex additional learning needs will continue to require a full multi-disciplinary assessment and planning process. However, children and young people with mild to moderate additional learning needs, who do not require a full multi-disciplinary assessment and planning process, will still require proper identification, assessment and planning processes matched to their level of need.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We would agree in principle that the Draft Bill provides a basis for increased collaborative working between agencies, however, we are concerned that collaboration must be underpinned by great clarity about responsibilities and supported within a clear legislative framework.

Person Centred Planning will help to improve the situation and Action plans will be a definite improvement compared with the current format of annual review meetings. However, the potential of getting all the professionals together for meetings is likely to be difficult, especially with the potential increase in the number of IDP reviews being convened. This lack of attendance will reduce the effectiveness of the meetings and decisions that can be reached during them. On the other hand, we would not want to increase the time that health service professionals spend in meetings unnecessarily either as this would reduce the time they are able to spend in working directly with the young people even further. IDPs where health, care and education professionals collaborate and that go on until the young person is 25 will be an improvement compared with the current system. They are likely to become improved with time and practice as relationships are formed.

The current framing of the Bill allows for much potential disagreement between children and young people, parents, schools or other educational institutions, and local authorities about who should have responsibility for drawing up and maintaining an IDP and on what basis this should occur, on what it should be based and what it should contain.

The health service is a key partner in the delivery of some of the services required to support children and young people with ALN, particularly learners with more complex needs and also in early identification of needs in the 0-3 age range. From that perspective we welcome the new duty on LHBs to appoint a Designated Medical or Clinical Officer to have responsibility for coordinating the LHB's function in relation to ALN.

With particular reference to Section 14 paragraph 5 and Section 15, paragraph 4 of the Draft Bill, there is a clear inequality regarding duties and responsibilities between agencies – especially Health and LAs. The Draft Bill and accompanying documents place no discernible obligation on Health to either to carry out assessments and provide information in a timely manner or to provide services other than those which they have already promised to deliver. To ensure an equality of partnership within collaborative working, it will be vital that the new Code of Practice sets out clearly the roles and responsibility of health services, in line with resources. This will provide parity of provision across authorities. The Code of Practice needs to be explicit on the role that health services play and how they input into the IDP and delivery.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We support the aspiration of avoiding disagreement and resolving disagreements as early as possible in the process. We also support the proposals that local authorities should put in place arrangements to avoid and resolve disagreements before progressing to a Tribunal as Tribunals are costly, both financially and in terms of time, and stressful for both families and the local authority and it can lead to a breakdown in the relationship between the parties. We would maintain that the conception of a mandatory disagreement resolution step prior to Tribunal is desirable. As noted elsewhere, consideration needs to be given to the costs to local authorities of putting these new arrangements in place.

We note with concern, in paragraph 7.180 in relation to Tribunal costs, the Explanatory Memorandum recognises “There is a possible risk that the PCP and disagreement resolution service will not deliver the intended positive impact in reducing the number of appeals arising” and conclude therefore that the Draft Bill as it stands does not support any reduction in potential disagreements or promoting earlier disagreement resolution. In addition to this, we are very concerned regarding the potential massive increase in the number of appeals that could go to Tribunal that widening the formal right of appeal to Tribunal, as set out in the proposal, would imply. This issue will of course be exacerbated by the relative lack of clarity around responsibilities in the boundary areas between, for example, school and local authority. Increased referrals to Tribunal will, of course, place an increased burden on the limited, and reducing, resources, of the Local authority.

It is our view that the greater the clarity about structure and process, the less likely is the prospect of disagreement and dissatisfaction. Because the Draft Bill is vague and imprecise in so many areas it is likely to make conflict and dissatisfaction more likely. Greater clarity and transparency will improve collaboration and, therefore, reduce conflict between all parties.

The proposed Bill could enable better collaboration between schools and LAs but is unlikely to in its current form where it is unclear whose responsibility an IDP might be. The inclusion of clear National Criteria as to what level of ALN and ALP it would be reasonable to accommodate out of the resources of the mainstream school, and therefore at what point it would be appropriate for the Local Authority to prepare and maintain an IDP, would help clarify the process. The current lack of clarity will result in differences across individual schools and LAs. National Criteria will support and the proposals will strengthen LAs in their role of challenging and supporting their schools and help improve transparency, and therefore challenge by parents where it is required.

We agree, in principle, with the aim of children and young people being fully supported in having their views heard and their best interests met through the use of case friends and, as necessary, independent advocacy. However, we are concerned that the current lack of clarity and specificity might lead to greater reliance on advocacy services, because of the greater potential for disagreement. Further clarification and specificity are also regarding Case Friends and their role, particularly in terms of safeguarding.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

At this point we wish to reiterate some of our core concerns. These extend to the content of the supporting documents including the Explanatory Memorandum and the Draft ALN Code of Practice.

As noted previously, we do not consider that the current Draft Bill and Draft Code of Practice properly incorporates the conception of a graduated response and highly specified approaches to identification and assessment. We argue that this should include specification of the specialist education support services that local authorities should be required to ensure are available to support the work at all stages.

We note that full multi-disciplinary assessment will continue to be required for children and young people with severe and complex needs to ensure that these are properly understood and met. At the levels that currently constitute school action and school action plus, the processes may be expected to be led by schools but to incorporate the contribution of external agencies and this element is not properly described within the current documentation. The inclusion of clear National Criteria as to what level of ALN and ALP it would be reasonable to accommodate out of the resources of the mainstream school, and therefore at what point it would be appropriate for the Local Authority to prepare and maintain an IDP, are required.

The strength of the current system lies in the clear specification of the graduated response with clearly defined attendant responsibilities and absolute clarity about the process of statutory assessment.

If The Draft ALN Bill and Draft Code of Practice are not significantly developed there is a real danger that the good practice represented in the current Code of Practice may be lost to the detriment of children and young people with additional learning needs. The present Draft Code of Practice document is disappointing in that it is not more rigorous or prescriptive than the Draft Act itself, and seems to merely rephrase the words of the Act in a different order, whereas the current Code of Practice does set out in clear terms the procedures a school should follow.

We take the view that the Explanatory Memorandum significantly underestimates the impact for local authorities both in terms of workload and finance.

As noted in previous consultation responses, we remain concerned that local authorities are being tasked with accountability for significant areas of responsibility over which they have little or no control, given that school funding is largely delegated and the governance of the further education sector, independent schooling and non-statutory pre-school provision lies outside Local authority remit.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Although we find much of the Draft Bill disappointing, we do recognise the Bill is an important piece of legislation, the principles of which are welcomed.

We welcome the increased emphasis on the contribution not just of parents but to ensure that the voice and views of the child or young person are central to both the assessment process and decisions regarding provision and placement. We note the particular emphasis upon the IDP meeting, where professionals from education and elsewhere, and the family and others, as well as the child or young person him or herself, meet to prepare the IDP. This would be excellent practice, especially if those present will have the authority to make decisions regarding the level of provision, as it is proposed.

Notwithstanding this, it may, as detailed in our responses above, prove difficult to implement this in practice and we would further argue strongly that without the core advice providers it would be impossible to reach a reliable understanding of a child's severe and complex additional learning needs since each contribution is distinct and complimentary to the others.

As stated in other responses, the Bill will inevitably and quite rightly raise aspirations and expectations and their consequent implications. Consideration of commissioning more professional training and development not only for ALNCOs but also specialist LA support staff, such as Educational Psychologists and specialist advisory teachers, and ensuring adequate funding for Local Authorities, will need to be addressed if the Bill is to succeed in improving outcomes for children.

It is our view that the Draft ALN Bill and Draft ALN Code of Practice need a fundamental review and rewrite to focus far more specifically on identification, assessment and provision for additional learning needs as we have noted above. We welcome Welsh Government's commitment to continued engagement with all stakeholders to shape the legislation and guidance, and look forward to playing our part to ensure the new system leads to improved outcomes for children and young people with additional learning needs in Wales.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

MERTHYR TYDFIL CBC CONSULTATION RESPONSE

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

ALN

The draft Bill and Code has missed the opportunity to unify definition across services including education, health and social services. Health services still stop at 18, so the Bill does not unify provision and services across the entire 0-25 age range. It makes more sense therefore for this Bill and Code to work across the lowest common age range, ie 0-19.

The change of terminology from SEN is helpful in that it removes some element of stigma and negative aspirations that have become associated with the term, however the term ALN has been used for many years, and its meaning is not consistently used across Wales. The definition needs to be clarified and reinforced if a congruent usage is to be attained. Using ALN to refer to SEN could create confusion as it depends upon practitioners all using the new definition consistently. There is also a potential that unless the definition is very clear, the focus on the vulnerable groups that currently come under the ALN definition will be lost.

ALP The addition of ALN as terminology for provision is useful, as it will allow clarity on provision to meet the ALN within the ILP rather than more generalised intervention and provision.

However, a concern expressed by a number of partners related to the many different acronyms and terminology used throughout the documents, eg ALN/SEN, ALP, ILP, IDP, which may cause some confusion for parents and pupils when trying to understand the new process.

Increasing the age range

Increasing the age range to include 0-3

Whilst there is generally agreement that increasing the age range to include all preschoolers, there is some concern that there will be some confusion and lack of clarity regarding accountability of multi-agency partners for both production of and supporting of IDPs for these children.

There is general agreement that an IDP that traverses pre-school into school is useful and will fill gaps in knowledge about the child's needs that currently form barriers to engagement and attainment. However, such a document would need to consider issues such as

- Which agency would be responsible for writing the IDP of pre-school children
- Rights of parent and carers to input, challenge and appeal the IDP and ALP to local authority, health and if necessary tribunal

Increasing the age range to include 19-25

This element of the proposal is welcome, in that it will enable IDPs to transition with young people from one education setting to another and into training settings. However, the ability of the local authority to manage and participate in this is challenging. However, the capacity of LAs to manage the 16-25 year olds has not been taken into consideration- LAs are currently making cuts across the board so will not have the workforce to support the extension of their responsibilities. The level of expectation of parents and carers for support to continue in the new settings would increase without any clear understanding of the lines of accountability and funding restrictions, exacerbated because the right to appeal is also included. Local provision to meet the needs of all of the young people with ALN in this age group is unlikely to be available even if appropriate. However, parents and carers will expect it as the Bill clarifies that they would have a right to additional support without clarifying criteria for the differing levels of support. This would lead to a significant increase in challenge by parents and young people with ALN.

The current draft of both the Bill and the Code would have significant implications for local authorities, schools, and other multi agency partners in terms of a requirement for staffing, resources, provision and funding at a time when all LAs are facing significantly reducing budgets to manage current levels of provision. Extending the entitlement to 0-25 years will increase this shortfall and set local authorities and partners up to fail. This will undoubtedly lead to raised expectations, greater disappointment and dissatisfaction and many more challenges, complaints and tribunal appeals. It would be useful if Welsh Government identified and ring-fenced tripartite funding to alleviate the huge financial strains on working in a multi-agency arena, even if only for a given length of time (e.g. 3 years)

Question 2

A unified planning process with increased participation by children and young people. Do you agree that the draft Bill would create a robust legal framework for the preparation maintenance and review of IDPs?

The draft legislation and Code does not provide a sufficiently robust definition of ALN. This is not an improvement on the current situation, and leaves open to interpretation terms such as 'significantly greater difficulty in learning' (draft Code Ch 6:97).

It is positive that there is increased participation of children and young people. However, the legal framework as it is presented is not robust, in that it does not set out robust criteria and graduated response for the variety of ALN. These performance measures linked to a graduated response is imperative if consistency is to be achieved across Wales. Without common guidance criteria there is going to be a wide variation in practice across Wales. and investment in ALNCo training the quality of IDPs and ALPs are likely to be as poor as the current IEPs, and current huge variation in practice across Wales is likely to continue.

It is completely appropriate that schools, FEIs and LAs have specific responsibilities for preparing, maintaining and reviewing IDPs, However, there is some concern that schools and FEIs will require significant training and support to allow this transition to be introduced. Also the quoted timescales for IDPs mean that they would need to be,

and could be issued without a number of the essential advice/reports. It also leaves open the opportunity for schools and LAs to produce the IDPs without full and proper consultation. Parents and carers will expect a lot from the IDPs – this is a massive task to dissipate to schools, who do not have the expertise of specialists within the LA. It is unlikely that the training required to upskill schools to undertake this role will be sustainable or value for money, and has the potential for leading to inconsistent practice.

A further issue is likely to arise relating to placement of pupils, especially given that the LAs will have less responsibility for those IDPs at SA+. There will need to be tight control on the right to name placements if parent and carer expectations are not to be raised with regard to gaining alternative specialist placements within the IDP process in schools.

For primary schools with high levels of ALN and for smaller secondary schools the workload of the ALNCo is likely to be unmanageable. In larger secondary schools, it is likely that the workload is likely to require a full-time ALNCo, which is financially unsustainable.

The role and responsibilities of health are ambiguous, and whilst in the initial stages of the drafting there was an expectation of responsibility by Education, Health and Social Services, the Social Services element has been all but lost in the current iteration. There has been a considerable strengthening of focus on Health, however there is still little within the legislation or the Code to indicate the consequences if they do not deliver services as per IDP and ALP. Hence, this will not improve accountability by Health.

The role for social services is not clear at all, and this requires significant strengthening if this really important service is to be an equal partner with a level of accountability and responsibility

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

There is always a focus on high aspirations and improved outcomes, and these are not solely dependent on legislation or Codes. Whatever is in place, aspirations and improved outcomes will be best achieved in a multi-agency forum that has a clear and specific framework of responsibilities and accountabilities – neither the draft Bill nor the draft Code of Practice include these at the current time.

The draft Bill proposes that governing bodies of schools and FEIs must designate a member of their staff as ALNCo – this will obviously not be a problem for schools, but may require additional funding for FEIs. The consistent training and professional development of ALNCo staff in institutions across the full age range is also something that needs to be addressed if the ILP and ALP is to be carried through transition points.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

It is a shame that Welsh Government has not taken up the opportunity to develop a single delivery plan for education, health, social services and wellbeing by linking this reform to the Health, Social Care & Well Being Bill, as well as other legislation including Learning and Skills (Wales) Measure. A common way of working in partnership across all legislative developments would be beneficial in changing culture and improving understanding of Welsh Government's expectations for public services.

Increased collaboration is very welcome, as this is extremely variable across Wales, and also varies across multi-agency partners. Relationships with Health are particularly inconsistent. Bodies including Health Boards have a duty to comply with the LAs request for help in planning and providing services and support for children and young people unless the support is a) incompatible with their own duties or b) would otherwise have an adverse effect on the delivery of their functions. This will simply allow Health Boards – and potentially governing bodies and social services – to evade their responsibility when budgets and resources are tight.

The duty on the Health Board to designate an officer to have responsibility for coordinating the board's functions in relation to children and young people with ALN is welcome. However, the draft Bill and Code is not strong enough to ensure compliance, and there is considerable doubt from partners across the multi-agency partnerships including Health, that this will make any significant difference to current practice.

The draft Bill and Code do not provide sufficient basis for an improvement in the way agencies work together, and doesn't do enough to challenge/change the current picture by laying out consequences for lack of engagement or accountability. The draft Bill and Code allow it to remain an option for Health to engage, rather than a legal requirement with consequences, as it would be for education. Social Services and Education already work closely, but this is definitely not a consistent picture across Wales for Health. The current iteration of both Bill and Code relies on the goodwill of individuals. Attendance at meetings, contribution to initial and review IDP and ALPs, producing reports in sufficient detail and to time within a PCP framework is unlikely without some clarity on consequences relating to responsibility and accountability.

However, the introduction of IDPs for post-16 learners where health and education professional collaborate will be an improvement compared with the current system.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

There is not a significant difference between the current legislation and SENCoPW and what is being proposed within the draft Bill and Code. Whilst the proposed Bill is marketed as being a simpler less adversarial system, there is a considerable concern that it is more likely to lead to conflict rather than improved collaboration between schools and LAs where it is unclear whose responsibility an IDP is. This can only cause increased stress and uncertainties for families, and a potential increase in the need for advocacy and disagreement resolution services. As such, there is a very high risk of increased demand to tribunal and dispute resolution services in the first iteration of the Bill and Code.

There is also likely to be significant confusion for parents and carers about the potential outcomes of Tribunals, for example, tribunals will still not be able to direct health provision, and given that a significant number of tribunals/disputes involve some health as well as education provision, they will not understand why a Tribunal will still not allow them to gain the support they are fighting for.

This will also not stop the current situation where parents and carers procure private health reports, to which Health Boards do not contribute either at the assessment or implementation phase. Local Authorities will only be supported to meet the needs of the children and young people, and the expectations of parents, if this practice is reduced through increased responsibility and accountability by the statutory Health service.

The draft Bill and Code has missed the opportunity to legislate for mandatory Mediation prior to tribunal. Parents who refuse to engage with mediation should not be allowed to go to full Tribunal. There are potentially significant implications for LAs in relation to the right to appeal regarding the decision as to whether CYP has ALN or not because of a lack of clarity in definition and graduated response criteria. This is likely to be intensified around the issue of ceasing to maintain an individual IDP, resulting in a lack of clarity for parents and carers about the target of the dispute, and conflict between school and LA in terms of right and responsibilities with regard to the decision to maintain. This lack of clarity caused by disparate and unclear lines of accountability for the IDP by governing body and LA has the potential to be more problematic in times of financial austerity. The situation under the current SENCoP is that Education funds advocacy costs, and the draft Bill and Code does nothing to change this expectation or spread the cost according to the area of dispute. There is also no commentary in any accompanying documentation about the scale of increase in tribunals and cost implications (time and money) and how these will be funded.

Schools, LAs, FEIs and advocacy / dispute resolution services will also need more robust guidance to support working with pupils who wish to take on their cases to Tribunal.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory

Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The supporting documentation is helpful in explaining the rationale behind the production of the draft Bill and Code.

Despite the explanation in the supporting documentation, there is some concern remaining regarding the phased introduction of the Bill, and the iterative introduction of the Code. Although there is an obvious need for a phased introduction, there is the potential for the next four years to become a 'limbo' period that crosses both old and new legislation and Codes, and does justice to neither.

Some radical changes are proposed particularly in respect of the extension of the age range, the extension of statutory protections to include all children and young people who have ALN and need ALP support, increase in expectations of multi-agency working between key stakeholders, and the rights of children to initiate their own appeals.

Y Bil Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) drafft Ymateb Cymdeithas yr Iaith Gymraeg

Sylwadau Cyffredinol

1.1. Mae'n destun siom nad yw'r Bil yn cynnwys darpariaeth ddigonol o ran sicrhau hawliau i'r Gymraeg yn y prosesau a strwythurau a amlinellir yn y Bil a'r Cod drafft.

1.2. Nid yw'r dogfennau yn cydnabod bod problemau systemig o ran sicrhau darpariaeth anghenion dysgu ychwanegol yn y Gymraeg. Nid ydynt ychwaith yn cydnabod pwysigrwydd sicrhau bod cymaint â phosib o'r prosesau yn digwydd drwy gyfrwng y Gymraeg yn unol â dewis iaith plant, pobl ifanc a/neu rieni. Nid ydynt felly yn cynnig unrhyw ffordd o fynd i'r afael â'r anawsterau a'r gwendidau hyn.

1.3. Rhoddir pwyslais yn y Cod, yr Asesiad Effaith a'r Memorandwm Esboniadol ar gydymffurfiaeth â Safonau'r Gymraeg fel ffordd o barchu hawliau i'r Gymraeg. Fodd bynnag, nid yw'r Safonau wedi cael eu gosod ar ysgolion unigol ac nid oes datganiad o fwriad gan Gomisiynydd y Gymraeg na'r Llywodraeth i'w gosod arnynt. Nid yw'n glir ychwaith a fydd y Tribiwnlys Addysg Cymru yn dod o dan y Safonau ai peidio.

1.4. Mae'r dadansoddiad a gynigir ar dudalen 11 yr Asesiad Effaith yn anghywir felly wrth iddo honni: "Yng nghyd-destun Anghenion Dysgu Ychwanegol, bydd yn rhaid i'r cyrff perthnasol sicrhau bod eu gwasanaethau yn cael eu darparu'n ddwyieithog yn unol â Safonau perthnasol y Gymraeg, yn ôl anghenion a dymuniadau'r disgwybl a'i riant." Yn ogystal, mae hawliau plant a phobl ifanc o dan y Safonau yn amrywio o sir i sir, felly nid oes sicrwydd y bydd cysondeb o ran y ddarpariaeth Gymraeg ychwaith.

1.5. Mae'r Asesiad o'r Effaith ar y Gymraeg yn cynnwys rhestr o bwyntiau 'mae'n debygol y bydd y Cod drafft yn cynnwys' mewn perthynas â'r Gymraeg, ond ar y cyfan nid yw'r pwyntiau hyn yn ymddangos yn y fersiwn drafft o'r Cod a gyhoeddwyd ochr yn ochr â'r ymgynghoriad ar y Bil.

1.6. Credwn yn gryf y dylai bod hawl gan unrhyw blentyn, person ifanc a'u teuluoedd i dderbyn y ddarpariaeth a'r gwasanaeth priodol drwy'r Gymraeg. Felly, dylid rhoi hawl i ddarpariaeth drwy gyfrwng y Gymraeg ar wyneb y Mesur arfaethedig. Yn ogystal, mae angen eglurder yn y Cod Ymarfer yngylch gofynion statudol mewn perthynas â'r Gymraeg - gan gynnwys yr hawl i drafod y broses yn y Gymraeg, a'r hawl i wneud apêl yn y Gymraeg. Dylai unrhyw ganllawiau amlinellu'r hyn a ddisgwylir o ran arfer da mewn perthynas â'r Gymraeg.

2. Sylwadau ar y Bil

2.1 Nid oes cyfeiriad at ddarparu'r gwasanaethau a phrosesau a amlinellir yn y Bil yn Gymraeg o gwbl.

2.2. Dylai fod hawl gyffredinol i blant, pobl ifanc a'u rhieni dderbyn yr holl wasanaethau hyn yn Gymraeg. Credwn y dylai'r Bil ei hun gynnwys datganiad diarmwys sy'n nodi'r disgwyliadau o ran darpariaeth drwy gyfrwng y Gymraeg – o ran y ddarpariaeth addysgol yn ogystal â'r gallu i ymwneud â'r broses gyfan. Dylai'r Cod fynd i fanylder yngylch y dyletswyddau, y disgwyliadau a'r ymrwymiadau ar lefel ymarferol.

2.3. Dylid rhestru Comisiynydd y Gymraeg yn adran 5(1) fel corff y dylid ymgynghori â fe yngylch y Cod.

2.4. Awgrymwn y dylid ychwanegu cymal yn y Bil sy'n sefydlu hawliau plant, pobl ifanc a rhieni i'r Gymraeg i'r gwasanaethau, gwybodaeth a chyngor a ddarparwyd ar eu cyfer yn y Bil. Gellid edrych ar adrannau 6 a 7 i fewnosod cymalau o'r fath.

2.5. Yn adran 31 y Bil, dylid diwygio'r gofynion cofrestru ar gyfer ysgolion annibynnol yng Nghymru a dylid nodi yn y gofrestr drwy gyfrwng pa ieithoedd y cynigir y ddarpariaeth.

2.6. Mae adrannau 46 a 47 o'r Bil yn sefydlu Cydlynwyr Anghenion Dysgu Ychwanegol a Swyddogion Meddygol neu Glinigol Dynodedig, er mwyn bodloni hawliau iaith pobl ifanc a rhieni, bydd rhaid i'r Gymraeg fod yn sgil hanfodol ar gyfer y swyddi hynny.

2.7. Dylid sicrhau bod aelodau'r Tribiwnlys a sefydlir yn Rhan 4 y Bil yn cynnwys digon o siaradwyr Cymraeg fel bod modd cynnal gwrandawiadau drwy gyfrwng y Gymraeg. Dylai fod hawl i apeliadau gael eu clywed yn Gymraeg yn ogystal.

3. Sylwadau ar y Cod

3.1. Mae Safonau'r Gymraeg yn cael eu crybwyllym mharagraff 14 o'r Cod, ond maent yn anwybyddu'r ffait nad oes bwriad gan y Llywodraeth na'r Comisiynydd i gynnwys ysgolion unigoïl o dan eu darpariaethau.

3.2. Ym mhennod 2 y Cod, credwn y dylai'r hawl i gael darpariaeth Cymraeg ac ymdrin â'r prosesau drwy gyfrwng y Gymraeg gael ei nodi yn yr adran Egyddorion. Dylai bod cyfeirladau yn y cyd-destun hwn at Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn (gofynion ieithyddol), Mesur Hawliau Plant a Phobl Ifanc (Cymru), Strategaeth Addysg Cyfrwng Cymraeg Llywodraeth Cymru, ac Iaith Fyw: Iaith Byw (Strategaeth Iaith Llywodraeth Cymru).

3.3. Mae'r diffyg sôn am faterion y Gymraeg ym mhennod 4 y ddogfen yn syfrdanol. Yn wir, mae'r holl sôn yn y Cod am ddarparu gwybodaeth y gallai plant, pobl ifanc a rheini ei ddeall yn anwybyddu'n llwyr y ffait bod nifer o blant a phobl ifanc yn uniaith Gymraeg, yn derbyn eu haddysg drwy'r Gymraeg, neu'n llawer mwy cyfforddus yn cyfathrebu yn yr iaith honno.

3.4. Ymhellach, ym mhennod 5 y Cod, dylid nodi bod disgwyli'r wybodaeth a chyngor y cyfeirir atynt fod ar gael yn y Gymraeg. Nid yw Safon 40 wedi ei osod ar bob awdurdod lleol, felly nid yw'n glir y hydd y Safonau yn sicrhau bod yr holl wybodaeth yn cael ei ddarparu yn Gymraeg fel arall. Ym mharagraff 91, dylai fod sôn am gyfrifoïdeb yr awdurdod i sicrhau bod darparwyr allanol yn darparu eu holl wasanaethau yn Gymraeg.

3.5. Ym mhennod 10 y Cod, dywedir y dylid nodi '*the language spoken at home by the child or young person*'; yn lle, dylid nodi '*languages*' fel bod modd casglu gwybodaeth gyflawn am sefyllfa ieithyddol y cartref. Ymhellach, nid oes unrhyw sôn yma am (a) cyfrwng iaith addysg y plentyn/person ifanc (b) ai yn y Gymraeg neu'r Saesneg yr hoffai'r plentyn/person ifanc a'i rieni ymdrin â'r broses Anghenion Dysgu Ychwanegol. Mae'r wybodaeth hon yn hollbwysig er mwyn sicrhau bod modd bodloni anghenion iaith y plentyn neu berson ifanc.

3.6. Ym mhennod 11, dylid nodi dewis iaith yn y wybodaeth fywgraffydol sylfaenol yn enwedig gan ystyried y bydd y wybodaeth yn cael ei rhannu rhwng nifer o asiantaethau. Dylid cyfeirio'n benodol at y Gymraeg, ac at yr angen i gymryd i ystyriaeth a pharchu dewisiadau ieithyddol yr unigolion dan sylw, yn y bennod hon.

3.7. Dylai paragraff 355 nodi fod y Mesur Teithio gan Ddysgwyr (Cymru) 2008 yn gosod dyletswydd ar Awdurdodau Lleol i 'hybu mynediad i addysg a hyfforddiant drwy gyfrwng y Gymraeg.'

3.8. Ym mhennod 15, paragraff 373, y Cod, dylai cyfrwng iaith y ddarpariaeth fod yn un o'r ystyriaethau o ran a yw'r addysg a ddarperir yn addas.

3.9. Ym mhenodau 20 a 21 y Cod, dylid cyfeirio'n benodol at yr hawl i gael ymwnneud â phrosesau datrys anghydfodau ac apeliadau at y Tribiwnlys drwy gyfrwng y Gymraeg. Mae cyfeiriadau at 'suitable format' a 'plain language', ond dim un cyfeiriad at gyfrwng iaith y prosesau.

Rhagfyr 2015, Cymdeithas yr Iaith Gymraeg

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Lucy Proctor

Organisation (if applicable): The Royal National College for the Blind

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input checked="" type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree with the definitions of ALN and ALP. We do not agree that the draft Bill would deal properly with the age range it sets out to capture. It actively reinforces a duty for children of compulsory school age to be educated in the mainstream (S29-30). While many young people with ALN will find that their needs can be met by mainstream providers with adequate training, support and resources, this is less likely to be the case for those with low incidence/high need conditions such as visual impairment. This is a particular issue for young people with multiple disabilities with visual impairment (MDVI), which often stem from rare syndromes.

In our experience many young people with a visual impairment have a satisfactory primary school experience but find that their needs are increasingly unlikely to be adequately met in mainstream education in their teenage years and beyond. The assumption that young people can work more independently at this age often leads to a reduction in support at the same time as work load (particularly quantity of reading and research) and lesson pace increase. This can lead to under achievement, social isolation and lack of independence in adulthood.

Although Chapter 15 point 363 of the Code talks of inclusion, the phrase ‘The emphasis should be on ensuring the child is *as fully engaged as possible* in all the usual, everyday lessons and activities’ [our italics] sets a low bar in appearing to recognise that some children with ALN will fail to be engaged in a mainstream setting.

Specialist education is an essential option in a mixed economy of provision which enables the needs of every child and young person to be appropriately met and their full potential realised.

We are further concerned that in its current form the draft Bill and Code rely too much on providers in particular and, to some extent, local authorities fully understanding the best interests of the individual young person and acting accordingly. Schools and colleges will be expected to identify if ALN exist, prepare the IDP to an appropriate standard and then meet the full range of needs unless exceptional circumstances apply. We believe there is a high likelihood of failure to accurately identify, assess and meet need which will lead to an increasingly adversarial system and a reduction in meaningful choice and aspirational outcomes for young people with a visual impairment.

Our experiences at consultation and briefing sessions relating to the Bill, and those shared with us by other specialist providers, suggest that many representatives of local authorities are openly discussing their intention not to use specialist provision. This clearly indicates that a conscious bias will pre-empt any assessment of the needs of individual young people, potentially rendering their participation in planning and decision making irrelevant.

In our response to S2 we also raise a concern about the potential impact on those at the higher end of the age range if there is no requirement for an IDP to continue to the end of the academic year in which the young person turns 25.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We are concerned that S9 and S10 of the draft Bill give significant discretion to maintained schools and further education institutions to determine whether or not a young person without an IDP may have ALN. Many young people with a visual impairment have an adventitious or deteriorating condition which may not become apparent until they are attending school or college and which their provider may be poorly equipped to recognise or understand. This could lead to delays in identifying the need for an IDP or a refusal to prepare one. Although the Code does identify triggers and offer some guidance this is not sufficiently robust to ensure it is fully effective. There is also a risk of some providers having a perverse incentive not to acknowledge the student's developing needs or, conversely, to exaggerate the needs.

S11 increases the potential risks by leaving it to the governing bodies to determine whether a young person's needs have changed since a previous decision was reached and by placing limits on the circumstances under which the governing body can refer the matter to the local authority. This requires the governing body to not only determine whether a need exists but to assess the extent of it and whether or not the needs can be met within the organisation. This gives an individual institution significant power over a young person's future without sufficient regard for the level of expertise at the institution or the potential risk of influenced decisions.

These concerns also apply to a greater or lesser extent to S12-14 inclusive.

In order for the legislation to be effectively implemented we propose that as a minimum there should be clear duties for independent advice and information on how to request an IDP to be made available to young people and their parents and for independent expert advice to be sought if a potential need is identified.

S15 (6) enables an organisation to refuse a request to review an IDP if it considers the

review to be unnecessary. We would propose that this should be amended so that a request for a review accompanied by expert evidence (for instance medical opinion stating that the young person's needs have changed) must be agreed to.

We are concerned that where IDPs are drawn up for low incidence conditions such as visual impairment there is a significant risk that those responsible will lack the necessary expertise to make the IDP meaningful. The Code only requires them to 'consider' seeking external advice even when such a lack of expertise is identified (13.331), while if they determine that they can meet the young person's needs themselves there is no need for providers to include other professionals or the local authority (13.329).

We are concerned that S24 of the draft Bill states that a decision 'may' be taken to maintain an IDP until the end of the academic year in which the young person attains the age of 25. This raises the very real threat that a young person will either be denied funding if they will turn 25 during the duration of their course, or their funding will be terminated at their birthday. We believe that this section should be amended to state that if the young person is still in education, or has recently returned to education, at this stage their IDP 'must' be maintained until the end of the academic year in which they turn 25. This will be particularly relevant for young people with adventitious or deteriorating conditions who may need retraining as a result of the onset or development of their ALN.

Finally, there is no requirement for local authorities to inform young people of the full range of options available to them. If their participation in the process is to be meaningful young people must have access to all relevant information about ALP.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

This relates closely to our answer to Q1. The draft Bill correctly identifies that the interests of children and young people will best be served by their active participation in the process and their voice being heard. Unfortunately the draft Bill also reinforces the duty for children to be educated in mainstream provision (S29/30).

This will make it harder for young people with a visual impairment to access an education which is aspirational and enables them to achieve a wide range of personal outcomes which will best support their transition into adult life. Visual impairment is often poorly understood by mainstream providers, leading to practices which exclude young people from the full curriculum, restrict their ability to access the materials they need to successfully complete their studies, encourage social isolation and lead to restricted opportunities for higher education, employment and independent living. Specialist provision must be available as an equal option with other provision to ensure that each young person has a meaningful choice and recognition should be given to the life long value of such an education.

We do not believe that the approach being taken is aspirational or that the interests of young people with ALN are protected by this draft or by the supporting Code.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Although we have concerns about the way the commissioners will engage with specialist providers, the draft Bill does appear to include provisions which will actively encourage collaboration between commissioners of health, care and education services. This can only be beneficial for young people.

The active implementation of these provisions will be critical to the success of the legislation and we are concerned that with the exception of responding to statutory requests there is too great a reliance on what ‘should’ be done and little in the way of duties or requirements in the Code.

It is not yet possible to comment on how agencies and organisations may work together during transfer and transition periods as this information is still awaited.

We are concerned about the impact of this level of decentralisation on those who move outside of their home area for education, whether this is to attend a residential placement or simply to reach their nearest mainstream provider. Without appropriate safeguards there is a risk of disputes arising between authorities which would have a negative impact on the young person’s ability to access the right education in a timely fashion.

As the question is whether the draft Bill provides ‘the basis for improvement’ we do not disagree but in order for its aims to be achieved robust implementation and oversight will be essential.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

While we do agree that the draft Bill provides an appropriate framework, we would repeat our concern highlighted in Q1 that unless the barriers to young people choosing the education that best meets their needs are removed there is a risk of more disagreements and an increasingly adversarial system.

We are concerned at the repeated wording ‘must take steps which it considers appropriate’ within this portion of the draft Bill. This will inevitably lead to variations in practices and quality between areas. The views of local authorities on what is appropriate are likely to vary from the views of young people and their parents (and of other stakeholders) and it would be preferable to see a requirement to consult on this. On matters as important as independent advocacy services and dispute resolution every reasonable step should be taken to ensure that young people and their parents are aware of their rights.

The setting out of the matters over which an appeal to Tribunal can be brought is clear and appears comprehensive.

We look forward to seeing the draft regulations relating to timeframes and other matters which are not yet detailed.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We have included comments on the draft Code within our responses to other questions but for convenience have collated them below. There is no information in this section which has not also been provided in response to another question.

Although Chapter 15 point 363 of the Code talks of inclusion, the phrase ‘The emphasis should be on ensuring the child is *as fully engaged as possible* in all the usual, everyday lessons and activities’ [our italics] sets a low bar in appearing to recognise that some children with ALN will fail to be engaged in a mainstream setting.

We are further concerned that in its current form the draft Bill and Code rely too much on providers in particular and, to some extent, local authorities fully understanding the best interests of the individual young person and acting accordingly. Schools and colleges will be expected to identify if ALN exist, prepare the IDP to an appropriate standard and then meet the full range of needs unless exceptional circumstances apply. We believe there is a high likelihood of failure to accurately identify, assess and meet need which will lead to an increasingly adversarial system and a reduction in meaningful choice and aspirational outcomes for young people with a visual impairment.

Our experiences at consultation and briefing sessions relating to the Bill, and those

shared with us by other specialist providers, suggest that many representatives of local authorities are openly discussing their intention not to use specialist provision. This clearly indicates that a conscious bias will pre-empt any assessment of the needs of individual young people, potentially rendering their participation in planning and decision making irrelevant.

We are concerned that where IDPs are drawn up for low incidence conditions such as visual impairment there is a significant risk that those responsible will lack the necessary expertise to make the IDP meaningful. The Code only requires them to 'consider' seeking external advice even when such a lack of expertise is identified (13.331), while if they determine that they can meet the young person's needs themselves there is no need for providers to include other professionals or the local authority (13.329).

Although we have concerns about the way the commissioners will engage with specialist providers, the draft Bill does appear to include provisions which will actively encourage collaboration between commissioners of health, care and education services. This can only be beneficial for young people.

The active implementation of these provisions will be critical to the success of the legislation and we are concerned that with the exception of responding to statutory requests there is too great a reliance on what 'should' be done and little in the way of duties or requirements in the Code.

It is not yet possible to comment on how agencies and organisations may work together during transfer and transition periods as this information is still awaited.

The Code is a critical document which will affect how the proposed legislation is implemented in practice. Chapter 11 point 297 gives three examples of appropriate and inappropriate outcomes for IDPs. The explanatory notes state 'The purpose of going to college is to get paid work; it is not an end in itself.'

We are concerned that this statement sets an expectation for young people with ALN which would not necessarily apply to those without, for whom learning is often accepted as an end in itself. Further education covers a wide spectrum of skills and can allow a young person with ALN who may never be able to secure paid employment to achieve a broader range of personal capabilities than would otherwise have been possible, leading to greater independence and personal wellbeing.

Young people with ALN also face greater difficulties in securing work – the current rate of employment for people with a visual impairment in the UK is below 30%. If their opportunities to progress and develop through college education are linked to the likelihood that they will find paid employment afterwards they may face additional barriers in securing an opportunity to study.

To define the college experience in such a narrow way is to exclude many young people who will be directly affected by this legislation.

We would propose that a reference to low incidence conditions be added to Chapter 15 point 391 of the Code in terms of who may particularly benefit from specialist provision as there is a high likelihood that sufficient expertise will not exist in every local authority area to support young people in these circumstances.

Chapter 15 points 394-400 inclusive of the Code address residential placements. The

Code correctly states that 'multi-agency and cross-departmental working will be extremely important' in this context. We would propose that duties be introduced such that:

'Any additional services required alongside education... **must** be co-ordinated from the outset'

'...local authorities **must** ensure that they apply a co-ordinated approach internally...' and

that local authorities '**must**' use their best endeavours to ensure effective multi-agency working.

We would further comment that the tone of the section on residential placements is more appropriate for children than for young people in their late teens or twenties whose ALN may relate primarily to a physical disability. This could be easily amended by, for instance, adding the words 'if appropriate' to point 397.

We would point out that in Chapter 15 point 402 of the Code the restrictions on when a local authority may commission specialist ALP of any kind outside Wales and England are significantly less onerous than those placed on commissioning specialist provision within Wales and England and simply require that the institution can deliver provision that corresponds to the IDP.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The Additional Learning Needs Code is a critical document which will affect how the proposed legislation is implemented in practice. Chapter 11 point 297 gives three examples of appropriate and inappropriate outcomes for IDPs. The explanatory notes state 'The purpose of going to college is to get paid work; it is not an end in itself.'

We are concerned that this statement sets an expectation for young people with ALN which would not necessarily apply to those without, for whom learning is often accepted as an end in itself. Further education covers a wide spectrum of skills and can allow a young person with ALN who may never be able to secure paid employment to achieve a broader range of personal capabilities than would otherwise have been possible, leading to greater independence and personal wellbeing.

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To define the college experience in such a narrow way is to exclude many young people who will be directly affected by this legislation.

S5 of the draft Bill lists those persons who must be consulted on a draft of the Code. We would respectfully submit that the governing body of each institution named on the list of special post-16 institutions in England and Wales should be included in this consultation.

S7 gives significant discretion to local authorities in terms of what information and guidance is provided to young people and their parents and there is no requirement for the arrangements to be available outside the local area, although this could be easily achieved through a webpage. There does not appear to be any requirement for information and guidance to be independent. The actual content and quality of the information is loosely defined as what 'should' be done. We would suggest that the consistent provision of high quality, independent advice and information is key to the success of the proposals if the system is to live up to the duties outlined in S6 of the draft Bill.

S33 of the draft Bill refers to a list of independent special post-16 institutions in England and Wales. It is not yet known what the requirements for being included on this list will be and we trust that proposals will regard to this will be published soon, particularly given the clear direction in the Code that 'local authorities **must not** secure education or training for a young person at an independent specialist post-16 institute in Wales or England unless it is entered on the list of such institutions published by the Welsh Ministers.'

We would propose that a reference to low incidence conditions be added to Chapter 15 point 391 of the Code in terms of who may particularly benefit from specialist provision as there is a high likelihood that sufficient expertise will not exist in every local authority area to support young people in these circumstances.

Chapter 15 points 394-400 inclusive of the Code address residential placements. The Code correctly states that 'multi-agency and cross-departmental working will be extremely important' in this context. We would propose that duties be introduced such that: 'Any additional services required alongside education... **must** be co-ordinated from the outset'

'...local authorities **must** ensure that they apply a co-ordinated approach internally...' and that local authorities '**must**' use their best endeavours to ensure effective multi-agency working.

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We would point out that in Chapter 15 point 402 of the Code the restrictions on when a local authority may commission specialist ALP provision of any kind outside Wales and England are significantly less onerous than those placed on commissioning specialist provision within Wales and England and simply require that the institution can deliver provision that corresponds to the IDP.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Jeanette Rock

Organisation (if applicable): Flintshire County Council

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
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	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input checked="" type="checkbox"/>
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	Work Based Learning organisations	<input type="checkbox"/>
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	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The term ALN is welcomed and considered to be a more positive and inclusive term. The definitions of ALN and ALP are very similar to those definitions in the existing Code of Practice and to those used in the English SEND Code of Practice. The lack of further detail around these definitions does not support a more consistent understanding/interpretation nationally and perpetuates the variation between LAs in identification and provision for children and young people, which was one of the key drivers for reform.

The current definition of ALN includes a number of vulnerable groups, such as EAL and Gypsy/Travellers. How are the needs of are vulnerable groups such these going to be recognised given the revised definition?

The extension of the age range from 0-25 is welcomed as this should facilitate more effective transition in terms of education oversight and progression. Agencies will need to review their existing child/adult service interfaces to adapt and respond to the extended range.

The current financial position facing LAs raises a number of concerns around implementation of the extended age range. Existing educational services cater up to the age of 19 and staff do not necessarily have the expertise or capacity to apply their services to the extended age range. The consultation document indicates that additional funding will not be made available to support implementation of the reforms as the resources already exist in LAs. This assumes that all individuals captured by the reforms are known to existing education/social services which may not be the case. Also, given the lack of final detail around the Bill / Code of Practice, LAs are not able to incorporate the Reform requirements fully into the service changes/reductions which are an ongoing and dynamic feature of LAs given the financial uncertainty. It is anticipated that by the time of implementation, LAs will not have the required level of staffing and/or expertise to respond to the requirements of the Bill.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The draft Bill proposes an increased legislative framework potentially covering all children and young people who meet the criteria for ALN, unlike the previous 2-tier (non-statutory / statutory) system. This in theory should provide greater equality.

The Bill outlines the role of schools, FE institutes and LAs in the preparation, maintenance and review of IDPs. The generic nature of the ALN and ALP definitions do not support consistency across these settings and as a consequence LAs will need to commit time locally, regionally and nationally to develop, where possible, some consensus of approach if we are not to perpetuate the existing variation in practice and access. WG will have missed a significant opportunity to support equality of access for children and young people across Wales if further guidance/directive is not issued on this prior to the implementation of the Bill.

The draft Bill makes reference to the role of Local Health Boards and NHS Trusts. Many of the disputes experienced by LAs are around the contribution of health related services / funding. The wording of the draft Bill does not instil confidence that these issues will be addressed and resolved.

Until the detail around the Code of Practice is finalised and new reform processes are in operation and challenged, it is difficult to know whether the legal framework is robust or not.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In theory, the draft Bill should provide further protection for all children and young people with ALN given the proposed statutory framework. The process has additional opportunities for children/young people to challenge decision making for themselves and the process, being a person centred approach, should facilitate greater engagement from the individual and not just parents and professionals. Robust advocacy systems will need to be in place to further support this. Further clarification is required regarding individual / parental decision making, i.e. who does the final decision sit with for post 16 individuals?

It should be recognised that where person centred planning (PCP) has been implemented as part of the WG pilots, it was stated by practitioners that additional time was required to

implement the process effectively, that the facilitator needed to be skilled in this area, and that PCP as an approach does not suit all individuals. The final process will need to reflect this and make provision for variation where necessary.

The acknowledgement of the importance of the ALNCo role is welcomed and a necessary requirement to promote and protect the interests of children and young people with ALN, particularly at a time of reducing school budgets and the ongoing pressure on schools to continually raise standards. The challenge for some small schools will be to fund the role and to restructure management teams to incorporate it.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Multi-agency partnership working is an integral and embedded methodology within the existing SEN Code of Practice. As such, it is a common and established feature of LA / agency working. It is unclear how the draft Bill will improve on this as the main accountability seems to still sit with the LA. The perceived lack of accountability for Health through the draft Bill is considered to be a significant failing in the legislation, although we do recognise that the duty to appoint a designated or clinical medical officer is a positive step forward.

The ‘duty to share’ information across agencies is welcomed and will serve to improve and enhance multi-agency working.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

The framework is deemed to be appropriate to support disagreement avoidance and resolution. The proposed steps prior to Tribunal are welcomed, however this could result in

capacity issues for LAs. The process appears to relate only to LAs and education providers and no reference is made to health-related disputes. Further detail around the responsibility for IDPs and legislative compliance is required, as is the detail around the level of participation in the dispute resolution process. Comprehensive training must also be provided for leading staff.

A key development around the process of appeal has to be ensuring that the Education Tribunal understands and reflects the current position/role of LAs, e.g. the national drive to delegate centrally held funding to schools. Where LAs are complying with this requirement, schools are taking the opportunity to offer creative solutions to meeting individual needs and this can create difficulties in the exact quantification of provision which is a current requirement.

An extended definition of ALN and ALP would further support the appeal process and ensure a consistent approach to appeal.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The ‘Easy Read’ documents are a very useful guide and should be made available at all stages of the consultation process.

The draft Explanatory Memorandum is a useful way of helping readers with the legal terminology of the draft Bill.

Whilst it is recognised that the draft Code of Practice is still under development, the lack of information in all key areas makes it difficult to understand the proposals and therefore to comment in full on the draft Bill. There remain a number of unanswered questions, which make planning and preparation difficult at a time where finances are significantly under threat.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The questions have captured the main responses to the consultation. Key areas of concern remain as follows:

- a) the continuing lack of detail around the process and ultimate responsibility

- b) the increasing workload for LAs and schools in a time of reduction finance / capacity
- c) the available expertise / access to training to implement the ALNCO and associated PCP roles within educational settings
- d) the lack of legislation around health engagement and accountability
- e) the lack of detail regarding the transfer of responsibility/funding for post 16 specialist provision to LAs

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Carmarthenshire Educational and Child Psychology Service

Organisation (if applicable): Carmarthenshire LA

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input checked="" type="checkbox"/> <input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The definitions are open to a variety of interpretations and the danger is that this may lead to a number of appeals as they can be interpreted subjectively. Although there will be case studies, these need to show what ‘significant’ looks like.

Are social, emotional and behavioural difficulties easily included in the term ‘ALN’?

Getting rid of the graduated/staged approach to identifying needs allows schools alone to decide who should be considered as having significant additional needs. This is considered a mistake.

Is part 2, number 2b, too provision led?

There is an assumption that all mainstream schools can offer the same provision. It may be helpful to say what sort of things are considered to be additional learning provision – e.g. is it Braille, signing, sound systems and so on?

What are the ‘additional learning provisions’ required for pre-compulsory school age? This needs to be clearly outlined.

There are a number of health requirements which may have been identified but are not necessarily part of a learning provision. If a requirement has been identified, does this mean that Health *have* to provide it or does it fall back to the Local Authority responsibility?

Speech and Language Therapy – is this a requirement for S&L therapists or schools re provision? Is this a whole new area of need that is not being addressed now? If the LA has identified this as an issue and Health won’t pay for it, then this may also need to be provided for by LAs with funding implications.

Will the early years developmental profile be used to identify ALN/P for pre-school children?

Who provides the assessments?

Who makes the decision regarding the child's requirements if there is only one perspective? We would strongly advocate that this should be informed by an Educational Psychologist (EP) assessment as many of the other professionals come from one perspective rather than taking a multi-faceted view which incorporates the views of others and the context of education.

If a local authority support service (EP or Advisory) are asked to advise on provision, can that be at school level or does it automatically become a local authority assessment and creation of an IDP? How then do LAs help to increase school capacity?

Perhaps the schools will have nothing in their budget to support the child, the LA will then have to provide support – how does this sit with delegated LA ALN funding to schools?

0 – 25 age range:

There is only one reference to age 25. Young people who are detained up to the age of 25 may be in prison but they are not included in the Bill.

What about young people who want to come back into education or training? In the current format, does this Bill include assessing older young people for further education? If so, who pays for this?

The workforce will need to be increased to cover this age range.

As mental health issues are usually identified for the majority by the age of 25 and the provision for their mental health needs is usually coordinated in a Care and Treatment Plan - a holistic, integrated plan, there is also likely to be an element of additional learning provision required. This will have a knock on effect as it will influence training needs for the providers of education for the older age groups.

Funding post 16 and 18 specialist educational placements has been currently an all Wales pot which was more suitably flexible than allocating it to the local authorities. This appears to more than double the local authorities responsibility. What is the rationale of the Welsh Government proposal to giving this element of responsibility to LAs? How will the workforce be able to absorb this additional role if there is no additional staff funding?

We have a real concern re the increase in workload stretching the resources to a point that the new system of person centred planning and IDPs from 0-25 will not serve the needs of children and young people and their families as intended.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Is there enough clarity around transition processes?

What if the Health Board don't agree to provide medical advice? Then the whole process will fall down. At least with statements, the Health Board have to provide that advice.

There is no clarity around who will provide assessment and advice and whether they have to have a good enough understanding of education. EP involvement is likely to be essential to provide information in the round.

The process should be clarified so that good decisions can then be made.

The phrasing is poor and inconsistent – do you need to have agreement of parent and/or child and does this vary according to age? Clarification required. If compulsory school age changes, this will have a knock on effect.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Where does the bill mention high aspirations and improved outcomes?

It is not clear how schools will receive support to raise their capacity.

The governing body needs to have a duty to meet the need for high aspirations. If they choose not to, then nothing can move forward.

The bill would help to promote but not necessarily protect.

You can also get false positives.

OVERALL DISAGREE

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Promoted but not protected.

We think there should be a duty for agencies to work towards single integrated plans.

Also to plan strategically to meet children and young people and their families additional needs in a systemic way.

There needs to be improved clarity about roles and responsibilities.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Doubling the population and scope of the Bill, especially without clarity of parameters, will not avoid disagreement.

The older population are more likely to have independent advocates which will likely make it harder to resolve disputes.

If you don't agree with the first four questions, this would influence the answering of this question.

If a child is excluded from school, what happens as this is not included?

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Supporting documents – explanatory notes would be helpful but are not present. We recognised that the draft code of practice is a very early document with a promise to exemplify with case studies but there need to be greater clarity and detail around definitions, process and roles and responsibilities. We would have expected much more re Person Centred Planning underpinning principles in the first draft of the CoP.

What about careers advice? Careers Wales are not mentioned so that work would probably come to the ECPS.

EPs and SALT are not mentioned in this bill.

Lots of the loopholes that were present in the last bill are still present.

What about the impact of the new Social Care and Wellbeing Act?

Does the bill cover all young people up to the age of 25 or post 16 only those who have had an IDP for complex ALN?

Is Higher Education exempt?

Who holds funding at different ages and stages, particularly at age 16 plus? Is this enough, is this protected or does this fall back on the local authority?

Why exclude independent schools from the requirements?

The bill is vague in parts.

This is a document which is not readily accessible for a large proportion of the population. It would benefit from being simplified and useable. The draft Code of Practice needs to visual too.

Concerns were expressed about the workforce planning – personnel for assessments, bureaucracy, dispute resolution.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

What about careers advice to inform planning?

EPs and S and LTs are not mentioned in this Bill.

Lots of the loopholes that were present in the last related Act are still present.

What about the impact of the new Social Care and Wellbeing Act?

It is not clear if the Bill covers all young people up to the age of 25 or post 16 only those who have had an IDP for complex ALN?

Is Higher Education exempt?

Who holds funding at different ages and stages, particularly at age 16 plus? Is this enough, is this protected or does this fall back on the local authority?

Why exclude independent schools from the requirements?

The Bill is vague in parts.

This is a document which is not readily accessible for a large proportion of the population. It would benefit from being simplified and useable. The draft Code of Practice needs to be visual too.

We have serious concerns particularly about the workforce planning to resource this system effectively and the impact on personnel for assessments and reviews, bureaucracy and dispute resolution.

Please see our previous Consultation response where we outlined our support for the principles of the proposed ALN Reform.

We are very concerned that the ALN Reform comes at a time when cuts are paring back resources in all settings and support services, with an expectation that it can be delivered with existing resources and that the Bill is not clear enough to allow robust assessment of ALN and determination of ALP. We also believe that there is a missed opportunity to align agencies duties to identify need and support in a person centred way and planning processes to support single integrated plans for children, young people with additional needs and their families/carers.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb

i'r

ymgyngoriad

Eich enw: Nerys Williams

Sefydliad (os yw'n berthnasol): Ysgol Gymraeg Sant Baruc

e-bost / rhif ffôn:

Eich cyfeiriad:

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlwynwyr Anghenion Addysgol	<input checked="" type="checkbox"/>
	Arbennig	<input type="checkbox"/>
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliadau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliadau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau Iechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliadau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliadau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>

Arall

Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

ADY yn derm sydd yn cynnwys grwp eang o ddysgwyr. Mae ein disgylion Abl a Thalentog yn cael eu cynnwys hefyd o fewn ein grwp ADY yn yr ysgol. Rhaid felly sicrhau cysondeb o ran pa ddysgwyr fydd angen Cynllun Datblygu Unigol. Bydd hyn yn golygu llawer iawn o waith papur ychwanegol ar gyfer y cyd-lynnydd ADY ac yn y pendraw bydd llai o amser dysgu a rhoi cymorth arbenigol i'n disgylion.

Yr ydym wedi symud oddi wrth ysgrifennu Cynlluniau Dysgu Unigol ar gyfer unigolion sydd ar gam gweithredu ysgol dan gyfarwyddyd yr AALI. Maent yn cael eu cynnwys yn fanwl ar Fap o Ddarpariaeth tymhorol y dosbarth.

Mae diffygion sylweddol yn y ddarpariaeth cyfrwng Cymraeg ar gyfer ein disgylion. Nid oes arbenigedd o fewn yr asiantaethau perthnasol.

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Wrth ddileu datganiadau bydd llawer o gyfrifoldeb yn cael ei roi ar ysgolion i wneud penferyniadau a chynnal CDU.

Os yw'r ysgol am ymgymryd a'r newidiadau yma yn llwyddiannus rhaid sicrhau:

- Hyfforddiant i staff
- Staffio digonol
- Cyllid i'r ysgolion
- Arbenigwyr i roi cyngor
Llwyth gwaith ychwanegol ar gyfer y Cyd-lynnydd ADY
- Llwyth gwaith sylweddol uwch
- Rheoli a gwaith gweinyddol
- Amser/hyblyrwydd o ran cyfarfod ag asiantaethau eraill yn ystod oriau gwaith.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Pryder na fydd y disgyblion yn cael cymorth arbenigol digonol gan y Cyd-lynnydd ADY. Cyfrifoldeb dysgu yn cael ei roi i gynorthwy-ydd. Safon y dysgu a'r ddarpariaeth i ddisgyblion mwyaf anghenus a bregys yn dirywio gan fod Cyd-lynnydd yn ymgymwyd ar gwaith gweinyddol.

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Cytunaf a'r angen i gyfathrebu wella rhwng yr asiantaethau.

Pryderaf am gylynu hyn o amgylch amserlen dysgu. Bydd angen i'r Cydlynnydd ADY fod ar gael drwy ddiwrnod gwaith er mwyn ymateb i'r gofynion hyn.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae pwyslais o ran rol yr ysgol a'r AALI yn agor y llifddorau ar gyfer gwrthdaro rhwng ysgolion a rhieni os oes anghytundeb o ran y ddarpariaeth a gynigir i ddisgyblion.

Cwestiwn 6 – Dogfennau ategol

A fyddch cystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Dylai'r Gymraeg gael yr un statws a'r Saesneg o fewn y ddarpariaeth a gynigir yn y ddogfen.

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanyst.

Hyfforddiant perthnasol i'r cyd-lynnydd ADY er mwyn trosglwyddo i'r drefn newydd.

Cymorth cyllidol i ysgolion ymgymryd a'r heriau ychwanegol.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngryd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Kathryn Rudd

Organisation (if applicable): National Star College

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input checked="" type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/> X
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Supporting comments

We do agree with the definitions of ALN and ALP set out in the draft Bill.

However we believe that the draft Bill could do more to successfully encourage a mixed economy of provision (including both specialist and general offers) which meets the needs and aspirations of a wide cohort of young people with ALN.

We believe that young people with low incidence requirements and high needs will often require specialist support to confer the same equality of opportunity as their peers. Those young people may require specialist settings, facilities and expertise in order to gain through a broad curriculum offer, a commensurate peer group and integrated approaches across education, care and health.

We believe that the involvement of specialist professionals in the assessment of need is imperative for young people with complex and / or low incidence needs. The current Bill and Code expect Schools and colleges to identify if ALN exist, prepare the IDP to an appropriate standard and then meet the full range of needs unless exceptional circumstances apply. This is a significant responsibility for providers and may inadvertently lead to considerable variations in approach and identification which could be considered unequal by young people, their families and other providers. If the Bill continues to expect providers to be the “gatekeepers”, statutory guidance is required to ensure frontline staff are both aware of their responsibilities, what specialist support is available and how it is both gained and funded.

Although we welcome the support within the Bill for students up to the age of 25 we would like to highlight two issues – firstly in restricting the IDP to those in FE (we understand young people with ALN will not be able to gain support if on apprenticeships and in HE). Secondly, the issue with IDPs not being required to continue to the end of the academic year in which the young person turns 25. Currently S24 states that a decision ‘may’ be taken to maintain an IDP until the end of the academic year in which the young person attains the age of 25. We believe that if the young person is mid-way through an academic programme they “must” be entitled to remain on that programme until the completion of that academic year.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree		Disagree	X	Neither agree nor disagree	
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Supporting comments

Although we would welcome a unified planning process we have a number of overarching concerns regarding the framework:

- The limited clarity around the process for developing an IDP and responsibilities for driving it forward
- The responsibility for the co-ordination of services falling on providers
- The potentially limited and / or non-existent involvement of specialist professionals in the IDP process (particularly for complex / low incidence learners)
- The limited duties for health authorities to collaborate on IDPs
- The critical need for independent advice and guidance for young people and their families

We have concerns regarding the potential to significantly increase workloads and bureaucracy for providers – particularly without standardised guidance. We also would highlight the need for comprehensive training, support and additional resources, in order to ensure that the legal framework is successfully implemented on a local level.

We are concerned that S9 and S10 of the Bill enable maintained schools and further education institutions to determine whether or not a young person without an IDP may have ALN. Many providers will have insufficient knowledge to determine the impact of acquired or deteriorating conditions. This could lead to delays or refusals to gain an IDP thus limiting the individual's life opportunities. S11 requires the governing body to both determine whether a need exists and also assess the extent of it, and whether or not the needs can be met within the organisation. Individual institutions may therefore not hold sufficient levels of expertise but be responsible for making significant decisions about a young person's future.

We would also request further review of S15 (6) which enables an organisation to refuse a request to review an IDP if it considers the review to be unnecessary. We are concerned that organisations may refuse a request without having sufficient information and / or expertise.

We are very concerned about the lack of duty to provide independent information, advice and guidance for young people and their families. S7 enables local authorities to make individual decisions about what information and advice they deliver to young people and their families. There is no requirement for this to be independent of the local authority.

We believe the legislation can only be effectively implemented if there are clear duties on independent advice and information on requesting and support for IDPs.

We would also suggest further review of the requirements for IDPs to be informed by relevant expertise. Currently the Code only requires consideration of external advice, while if they determine that they can meet the young person's needs themselves there is no need for providers to include other professionals or the local authority (13.329). It will clearly not be possible for all organisations to hold expertise on all disabilities (particularly low incidence disabilities) and we would therefore seek a more robust requirement to draw on expert

advice and guidance which could improve outcomes, increase independence and reduce long term costs to the public purse.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/> X
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Supporting comments

Currently we don't believe there is enough available information on how young people's interests would be effectively protected and promoted.

We would like to see more comprehensive information on the need for young people and families being involved in decisions to make changes to an IDP. We would also like to see more detail around the young person's ability to decline an IDP and how to ensure they are fully informed and have the mental capacity to make this choice.

We would also like to see more emphasis on "inclusive learning" (J Tomlinson 1996) looking at the best match between learner and environment.

We believe that without increased pooling of budgets and integrated working between education, health and social care that IDPs will be distorted by short term planning / funding and disputes between statutory departments rather than focusing on the needs of the individual. We believe that this will inadvertently lead young people achieving less independence and increasing costs on the public purse.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/> X
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Supporting comments

We recognise the expertise of the current ALN team within the Welsh Government and work closely with them to support individual needs and aspirations. We do have concerns that the decentralisation of responsibilities and resources to individual authorities and providers, without the significant investment required to establish a national framework, training and resourcing at a local level, could lead to a dilution of expertise and increased inequalities resulting in a "postcode lottery".

Increased decentralisation may also lead to significant delays arising from reassessment

and funding disputes between agencies and authorities for young people who cross geographical boundaries for home and education.

Whilst the draft Bill does appear to include provisions which will actively encourage collaboration between commissioners of health, care and education services we recognise that this is dependent on having clearly identified national guidance and policies, budget agreements and a local will to work collaboratively.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	X	Disagree		Neither agree nor disagree	
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Supporting comments

While we do agree that the draft Bill provides an appropriate framework, we do wish to highlight the wording ‘must take steps which it considers appropriate’ which is repeated in this section of the Bill.

This will inevitably lead to variations in practices and quality between areas and create adversarial practices. We are concerned that the wording will also create issues regarding “appropriacy” for not only differing authorities but between different stakeholders.

We would therefore request national statutory guidance and protocols to support disagreement avoidance and resolution.

Appeal to Tribunal clarification is clear and appears comprehensive. We anticipate further information in the draft regulations in relation to timeframes and approaches.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Chapter 15 (394-400) of the Code focuses on residential placements and states that ‘multi-agency and cross-departmental working will be extremely important’ in this context. We would strongly agree with this statement and would request that “should” be changed to “must” in relation to co-ordination and effective multi-disciplinary

working.

In addition to “severe” and “complex” disabilities we would suggest that a reference to low incidence conditions be added to Chapter 15 point 391 of the Code as there may not be sufficient expertise in every local authority area to effectively provide support for.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We would like to express our interest in being involved in the development of the Code and associated work. We would propose that S5 be enlarged to include governing bodies of specialist post 16 institutions in England and Wales who would be keen to offer advice and support developments on behalf of their learners and their families.

Our learners and their families are happy to share their experiences in relation to the impact of changes to legislation in England, which may be applicable to specific areas of the Bill or Code, if required.

We agree that independent special post 16 institutions be registered with the Welsh Government and would welcome opportunities to support the drafting of standards and criteria which would inform S33 via Natspec.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

I welcome change to the current system and agree that it is outdated and needs reform. However, I am concerned that your new draft Bill places too much power in the hands of the learning provider and I am weary of such a radical change without comprehensive systems, training and financial resources in place to launch such a bold Bill.

We are living in a time of austerity and cuts and I believe that a multi-agency approach is too ambitious given the time and financial restraints on many medical and teaching professionals. I am also concerned that the child/young person and his/her parent/carer is not central to your new Bill. Neither am I convinced that ‘information sharing’ will work in practice, and I think there may be sensitive issues for some young people that they do not want shared (eg. toileting issues). I would prefer to see a Bill that puts the emphasis on the child/young person with ALN. The new Bill makes too many assumptions that a school /learning provider can provide a ‘one size fits all’. I would prefer to see a flexible approach with a budget scheme where either (1) the pupil/learner holds the purse strings and the school/training provider ‘gets paid’ on outcomes , or (2) a three way split (Local Authority; school/learning provider; pupil) where all three can ‘sign off’ a budget if the outcomes have been met. (3) There is an alternative Education Otherwise Than At School (EOTAS) initiative for pupils who **need** something different from ‘the one size fits all’ approach (particularly true of children who are on the autistic spectrum which is a wide and varied ‘disability’ that needs special attention in Wales).

The term ‘Additional Learning Needs’ (ALN)

I personally dislike the term ‘Additional Learning Needs’. It implies that children have needs in addition to ‘mainstream’ or ‘normal’ children. The term ALN **promotes** social exclusion, which I do not believe is the Welsh Assembly Government’s intention. I would

prefer a socially inclusive term such as ‘Different Learning Needs’ as many children/young people, particularly those on the autistic spectrum, require a **different approach** or a **different environment** in which to learn. Many autistics are gifted musically or mathematically but have to endure noisy or sensory-unfriendly environments, which sets them up to fail. I believe you have over simplified the term ALN. There are those with learning disabilities, extra learning needs and physical, emotional or sensory disabilities – all require a different approach and I believe flexibility is crucial for such learners.

Additional Learning Needs (ALN) and Gifted and Talented/ Gifted and Able

Many pupils who are Gifted and Talented/Gifted and Able require **additional** teaching or a differentiated approach. It is not clear whether your ‘Additional Learning Needs’ definition includes these children and young people as they too need resources and teaching over and above ‘mainstream’ pupils.

Joined up working within departments within the NHS does not currently happen in practice. How will the new Bill ensure that joined up working within NHS departments happens? Will it be an inherent part of the new system? What happens with children who have symptoms but no diagnosis?

It is not clear to me how you will ensure that NHS departments communicate with each other. I have a son who has a variety of symptoms but no clear diagnosis. He is bowel incontinent (and yet the NHS views this as ‘developmental delay’ until at least aged 7), has sensory processing issues (again... no official diagnosis. Only now

is he being referred for possible ASD and the list is approximately 1 year long). Every NHS appointment I attend, I need to explain my son's medical and symptomatic journey. The only person co-ordinating this journey is me, the parent/carer. Will that change? It may be that paperwork will be shared but how will you ensure that it is read and interpreted correctly? I have seen 7 paediatricians, two speech and language therapists, two occupational therapists, three physiotherapists, three ENT/audio specialists, a podiatrist and a nutritionalist. None of them (with the exception of OTs and physios) discuss their cases with each other (because of time constraints). How will you ensure this changes?

How will you ensure that a child/young person's needs are at the forefront of provision rather than the school resources?

What I mean is that there is a danger that by giving budgets directly to schools, they will argue a case for resource-based provision (ie. What they can provide rather than what is needed) as they are budget-constrained.

Please be explicit about toileting issues/arrangements within nursery/primary and secondary school in the new Bill.

I home educate my son because he is bowel incontinent. There is still no definitive diagnosis for him although he is now on a list to be assessed for ASD. He was 'Statemented' in his pre school years (aged 4-5) and offered half-time TA classroom support but only supervisory support with toileting (which I view as a physical disability but it is not yet fully diagnosed). For this reason, I elected to home educate as I believe that with only supervisory support for toileting, I would be setting him up for disaster. There needs to be a cultural change

within schools about physical/pastoral care and it needs to be led by the WAG so that there is consistency Wales-wide. The draft Bill you propose does focuses on education and learning but to fully appreciate and include children with ‘Additional Learning Needs’ – PARTICULARLY PHYSICAL – there has to be more emphasis in the Bill about pastoral care.

I would also like to mention that the Welsh Assembly Government’s claim of ‘free part time nursery place for 3 and 4 year olds’ did not apply to my son as he had toileting issues then. My Local Authority’s policy for ‘free part time nursery places’ is handed to local schools to provide such places. My local schools would not accept my son ‘in nappies’. The NHS did not assess my son until he was 3.5 (The Ruth Griffiths Assessment). Only at that point could I apply for a statutory assessment which took a year (he was then 4.5) – too late for a ‘free part time nursery place’. This is the reality of how things work for parents/carers/children with ‘additional learning (physical) needs’. Please bring some positive changes and think them through on a timeline with realistic expectations of what can be achieved when by the NHS. It may be an idea to stipulate in your Bill that the **medical symptoms that children present with** (rather than formal diagnoses/medical assessments) should carry equal weight.

Catchment areas

How will your new Bill/the LA ensure that pupils will be placed with a learning provider suitable for the child’s needs? If the school/learning provider has already received its budget, what incentive will there be for a school to take a pupil outside of catchment? This has happened to me. My local school, according to their 2014 Estyn report has no Statemented pupils. I didn’t want my

child to attend a school where he would be the only Statemented pupil and so I looked outside of my catchment only to be told that I was ‘out of catchment’. Catch 22!

Education Otherwise Than At School (EOTAS) and Elected Home Education

This is an area that I think needs further resources and acknowledgement by you as valid alternative educational provision. It can act as a contingency plan/initiative for those children/learners that do not fit the ‘one size fits all’ learning provider model, and can also be used for those pupils who wait years for a diagnosis (of autism, for example) or cannot attend or function well in a school environment.

Easy Read



Llywodraeth Cymru
Welsh Government

Response form

Helping children and young people who need extra support to learn

Children and young people with additional learning
needs



Please tell us what you think by 18 December 2015

This is an Easy Read response form for the Easy Read explanation of the
Draft Additional Learning Needs and Educational Tribunal (Wales)
Bill.

October 2015

How to use this document



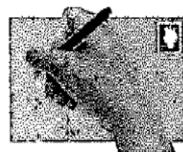
This is an Easy Read version. The words and their meaning are easy to read and understand. You may need help and support to read and understand this document. Ask someone you know to help you.



Some words may be difficult to understand. These are in **bold blue writing** and have been explained in a box beneath the word.



Llywodraeth Cymru
Welsh Government



Where the document says 'we', this means Welsh Government.

Please send your answers to:

Additional Learning Needs Reform Branch

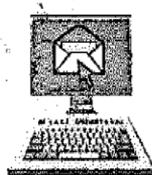
Support for Learners Division

Welsh Government

Cathays Park

Cardiff

CF10 3NQ



e-mail: SENReforms@wales.gsi.gov.uk

WG26534

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What this consultation is about



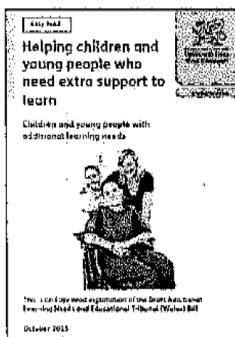
A **consultation** is when you are asked what you think.



We want education in Wales to be good for everyone. We are changing what all children learn in school. We have plans for training and supporting teachers.



We are writing a new law to support children and young people with additional learning needs. We will say ALN from now on. We want to know what you think of the new law.



You will need to read **Helping children and young people who need extra support to learn**. This tells you about the new law.

We are also writing rules for staff to use the new law. This is called a **Code**. We will send these out later this year.



A lot of different people have helped us to write this law. It has taken us a few years. We think it is good but know it can always be made better.

We will make sure that children and young people tell us what they think of the new law.

There are now some questions we would like you to answer.

About you

Your name

Your organisation (if you are writing this for them)

E-mail

We will put all the replies on the internet. If you do not want us to put your name on the internet please tick this box

Please tick what sort of group you belong to.



[REDACTED] / Schools



Special schools



Colleges



Pre-school settings – like nurseries



Public service group – like a day centre



Voluntary service group – like People First



None.

1. What are additional learning needs for people aged 0–25?

In the new law we say what we mean by additional learning needs (ALN). Do you think it is clear that we want to focus on learning needs?

(See pages 7 to 10 in the main document.)

Yes No Not sure

Do you think it's a good idea to focus on learning needs instead of other needs like health?

Yes No Not sure

Do you think the new law will be good for people aged 0–25 with ALN?

Yes No Not sure

Why do you think this?

I have needed OT, Physiotherapy, and Speech Therapy to access my education. Certain aspects of health provision (such as OT, Physiotherapy, and Speech Therapy) must continue to be part of learning needs. And Therefore, provision of these therapies must be covered in this legislation.

The proposed legislation should be good for people aged 0-25 with ALN as it suggests that IDPs will be more transferable between schools and local authorities than is currently the case. It would be better if it included young people going onto HE (i.e. Universities). These young people will also continue to need support throughout their studies so that they are not disadvantaged.

2. A plan for each child and young person

We want the new law to:

- give every child and young person with ALN an individual development plan (IDP). This is instead of different plans for different ages and different types of ALN, for example a Statement, an Individual Education Plan or a Learning and Skills Plan
- offer all children and young people with ALN the help they need
- support all additional learning needs.

Do you think our plans on how to:

- get ready for
- write
- do
- check

the new individual development plan are good?

Yes

No

Not sure

Will having one individual development plan be better than having different plans for different types of ALN?

(See pages 11 to 15 of the main document.)

Yes

No

Not sure

Why do you think this?

The lack of a legal process to replace the current statutory assessment and the lack of a legal requirement of a specific form for the IDP is worrying. In my experience, my local authority has tried to avoid providing a meaningful statement or updating it accurately.

There needs to be a set of clearly defined requirements and processes that must be followed.

3. Aiming high for children and young people with additional learning needs

We want to make sure all staff think about what children and young people with ALN must have. We want their needs thought about in all planning for education. Will the new law do this?

(See pages 16 to 17 of the main document.)

Yes

No

Not sure

Why do you think this?

The proposed code says that ALNCos are supposed to organise learning opportunities for staff so that they can better meet needs of ALN students, as well as recommending that Local Authorities support staff. However, I feel that the fact that this remains guidance (rather than requirements) weakens the culture change that the new legislation needs to bring about.

We want children, young people and their families to be involved in decisions about how to support their needs. Will the new law help children and young people have a say in the support they get?

Yes

No

Not sure

Why do you think this?

The proposed legislation does make clear that the students with ALN are at the centre of the system. However, the parent being left out of the required communications after the child has passed the school leaving age is not in the young person's best interest. Parents act as their children's strongest advocates – it often feels like nobody else really cares. Young people don't have the experience or courage to stand up against adults involved who are in positions of authority, even when they know that their needs aren't being met

4. Everyone working together

We want services to work together to support children and young people with ALN. Will the new law help everyone work together?

(See pages 18 to 19 of the main document.)

Yes

No

Not sure

Why do you think this?

The proposed legislation has good aims for linking up students, schools and local authorities. However (see above) parents are cut out of the system after the student is older than the compulsory school age. I feel like this will make it harder for a student with ALN to work with the school and the Local Authority on his/her IDP as they will also be spending a lot of time on their school work. As a student with SEN/ALN I find that it's much harder to organise things than my peers and to have more responsibilities than my peers despite having SEN including organisational difficulties that arise from my SEN/ALN seems like it could end up being a really big problem that would be really hard for me to solve. I would get very stressed and the people who know me best and care the most that my needs are met are my parents. It would be ridiculous for them to be excluded from working together with everyone else involved.

5. When people do not agree about the plan

We want to try to stop disagreements about the child's or young person's plan and help sort things out quickly when there is a disagreement. Will the new law do this?

(See pages 20 to 25 of the main document.)

Yes

No

Not sure

Why do you think this?

The new law puts responsibility on the local authority to avoid and resolve disagreements between education bodies and children/young people/parents of children. In my experience the local authority has not worked to resolve significant disagreements, and has refused to engage constructively with disagreement resolution. A massive culture change is necessary – the legislation must enforce this.

Do you think the way to appeal is clear?

Yes

No

Not sure

Why do you think this?

The proposed legislation suggests that a process can be set out for appeals, but doesn't state the process, or indeed insist that a process is set out. Saying that the regulations 'may' set out the process sounds too vague.

6. Anything else?

Is there anything else you want to say about the new law?

With regard to section 4 (2) of the new legislation.

The code should include compulsory requirements as well as guidance so that local authorities and schools/FE institutions have to do certain things in producing IDPs and providing ALP.

With regard to section 4 (3) of the new legislation

The mentioned persons should be required to follow or comply with the guidance instead of just 'having regard' to the guidance.

With regard to section 4, (4) (b) of the new legislation

The code must impose requirements as without any requirements, the code would be an extremely weak document that would not be effective at laying out how the support for ALN would work in practice.

With regard to section 6 of the new legislation

Parents of young people with ALN/SEN very often seem to be the only people to really care about what happens to the children. For me, having the support of my Mum and Dad is really helpful. If they were not directly involved [REDACTED] I'd be a lot more stressed and less able to concentrate on my studies. It's been their support that has helped to secure the necessary provision that has allowed me to be successful at school, despite my ALN/SEN. I feel like the additional responsibilities would be very difficult to handle specifically because of my ALN/SEN. It is hard to believe that it is in the best interests of the young person for them to be solely responsible for working with school and the local authority without parental support and involvement. A case friend cannot replace parental support. Any removal of parental involvement should be the exception rather than the norm, and even then only if the student wants this and it is judged to be in their best interests by tribunal.

With regard to section 7 of the new legislation

Local Authorities shouldn't be the only sources of information about this. A Wales-wide centre of excellence should be responsible for this so that it's further away from decisions about funding etc. and so is impartial.

With regard to section 8 of the new legislation

I think that in addition to the information which is required, the process by which the IDP is produced should be set out in the legislation. Having this makes it possible to challenge people and organisations when they're not

doing as they should.

With regard to section 9 of the new legislation

The Governing Body of a school/FE institution should be required to consult with an independent educational psychologist who has assessed the child/young person before making their decision. These educational psychologists could be attached to the Wales-wide centre of excellence.

With regard to section 9 (5) (b) of the new legislation

Parents should also be kept involved for young people as well as children.

With regard to section 23 of the new legislation

These regulations should be should be compulsory (i.e. not say 'may') as currently statements are hard to transfer between schools and local authorities, so I feel like I am locked into living in my current local authority area and going to my current school. This would mean that I'd be free to move between local authorities and schools without risking the support that I need being removed.

With regard to section 39 of the new legislation

Multiple case friends should be allowed, and parents should also be allowed to be case friends. As parents want to act as advocates, but this often takes a large amount of time and effort, the provision of parental partnership support (e.g. SNAP) is necessary. It should be specified who funds this parental partnership service.

With regard to section 46 of the new legislation

The ALNCo should be able to call upon people to support him/her. The role described in the code of practice is extremely extensive if it is to be done properly. ALNCos are overworked, so being able to call upon specialised support from a Wales-wide centre of excellence, or being able to have multiple people to support his/her role within the school or FE institution would be helpful to make sure that the ALNCo is able to be effective within the school. Also, a Wales-wide centre of excellence would be particularly useful to support schools that might not have the specialised knowledge or experience of ALN/SEN needs and processes and would ensure equal quality of IDPs etc. wherever you live and whichever school you attend.

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable): N/A

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other PARENT-CARER	X

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/> X	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

“Additional learning needs” is a very weak term and the issue is one of the right of disabled children/young adults to a decent education and to suitable provision (health, education and social) to make this happen. The opportunity has been missed here to change the discourse around provision for disabled children and young adults to one of “rights” rather than “needs”. This has long been argued for by those campaigning for the rights of disabled children to equality of opportunity in education. See for example the published work of Katherine Runswick-Cole and Nick Hodge, who use the phrase “special educational rights” rather than “special educational needs” in their recent paper¹. The argument is that a discourse based on needs is exclusionary by its very nature and that a system based on asserting disabled children’s rights would be more empowering and inclusive.

A second issue is that “additional learning needs” potentially covers a wider number of children/young people. This of itself is a positive step, though if no additional resources are made available, it risks distributing resources that are already inadequate to meet needs over an even larger population. Inevitably, the effect will be to diminish the provision available to all and in particular those with more complex support needs.

The extension to the age range at both ends of the scale is welcome. The issue in the early years is around how children will be given access to early intervention services, if their parents are unaware they exist. The provision should be mandatory on referral by healthcare staff and not dependent on a specific diagnosis being made, to avoid any delays in beginning interventions. I return to this crucial issue later in this section. Again, the risk is that inadequate resources will be stretched to fit a larger population, resulting in very inadequate provision, if no specific, “ringfenced” funding is allocated to early intervention.

Learning also does not stop at 25 for anyone, and particularly for those who have more complex neurodevelopmental problems, so support to learn new adaptive skills should also not cease at 25. It would be administratively more simple for these young people and their families if the same system continued in place to ensure provision for them for as long as it is needed.

¹ RUNSWICK-COLE, Katherine and HODGE, Nick (2009). Needs or rights? A challenge to the discourse of special education. British Journal Of Special Education, 36 (4), 198-203.

With respect to the definition of “additional learning provision”, there is a significant problem with the definition of provision for children under compulsory school age. As an example, in the case where a child has neurodevelopmental problems, the provision will necessarily be developmental, behavioural and educational. The implication of the definition given will be to focus exclusively on the “educational” component, ignoring the fact that without developmental and behavioural support, many children would be entirely unable to access the “educational” component. What needs to be made clear is that provision to access education needs to include interventions to build the skills required. In the most severe cases, significant support for development and behavioural intervention would be required before they were able to access generic mainstream nursery education. As an example, if a child has delayed communication skills and is non-verbal, a priority would need to be placed on acquiring these skills as quickly as possible, which may not be best served initially by a placement in nursery education. For example, these issues may be best supported by introducing a comprehensive early intervention programme for children below school age, along the lines of the best practice available in other countries. Experience has demonstrated the clear gains in functioning made and in many cases allows children to be educated later in a mainstream environment with support, when provided from birth onwards². One example of a widely used early intervention model in the US and Europe is the Early Start Denver Model, a highly effective approach with a very good evidence base of effectiveness.

The use of well-planned early intervention reduces the provision necessary when children start full time compulsory education, thus proving very cost-effective from a whole life perspective³. It is disappointing that this has not been explicitly included within the planned reforms, given that without a clear legal imperative, in my experience the provision for disabled children is a simple “race to the bottom”: there is no chance that a system where costs are front-loaded like early intervention will be implemented without an explicit legal mandate. This is compounded by the fact that early in their disabled child’s life, parents/carers will struggle to understand what provision might provide the best support, given that they may well only just be realising that their child needs help and be starting down the path to diagnosis.

It is my view based on experience that early intervention should be provided for any child where parents or health professionals have concerns regarding development, thus removing the need for diagnosis prior to accessing good quality interventions. This also removes the current issue with certain interventions only being made available on diagnosis, which delays intervention for many years in some cases, to the detriment of the children concerned and their families.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

² See for example http://www.ucdmc.ucdavis.edu/mindinstitute/resources/early_intervention.html, last accessed 10 December 2015

³ See for example <http://www.sciencedaily.com/releases/2013/05/130501112846.htm>, <http://www.sciencedaily.com/releases/2015/06/150609213335.htm>, last accessed 10 December 2015.

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The basis for the “ALN” reforms is that the existing legislation is “no longer fit for purpose”⁴. As a parent to a disabled child, I cannot disagree with this more. While any system is imperfect, the reasons that the current system does not work effectively, can be understood as follows. The question I believe that the Welsh Assembly Government needs to address is whether the proposed ALN reforms will address these issues. I would strongly suggest that they would have no effect whatsoever on these issues as follows (not exhaustive).

Failures in practice in assessing Special Educational Needs

- Lack of adherence to the Code of Practice by Local Authorities
- Failure to identify and assess needs at an early stage by Local Authorities, even where they have been advised of children likely to have additional needs from the outset
- Imposition of unnecessary time delay and bureaucracy by Local Authorities in dealing with assessments
- Relevant NHS practitioners e.g. Speech and Language Therapists and Local Authority staff e.g. Educational Psychologists failing to independently specify provision required, due to:
 - Considering what resources are available locally in their organisation when deciding what a child should receive
 - Failing to specify exactly what a child should receive, to leave “flexibility” to remove provision if resources change
 - Lacking the necessary independence from the organisational budget to make sound judgements based on need, rather than resources available
- Local Authorities attempting to place children in certain placements based on their diagnosis, rather than the individual’s support requirements
- Insisting on using bureaucratic processes that are unnecessary to delay putting provision in place e.g. insisting on using a “graduated approach” when it is clear from the outset that a child has complex needs from their existing health records
- Adversarial approach throughout, despite talking the talk of negotiation
- Paying lip service to parental involvement, while actually channelling parents towards decisions that have already been made and ignoring their input
- Obscure decision processes involving “SEN panels” of unknown membership to allocate resources

Failures in the Tribunal Appeal Process

- Insistence that tribunals are parent-friendly, informal “inquisitorial” processes, when they are highly adversarial and very formal legal processes
- Following from this, lack of appropriate, free to access legal support for parents before, during and after the Tribunal appeal process (i.e. highly trained advocacy services, not poorly trained volunteers seeing their role as independent from the parents they are supposed to support)
- The lack of independent assessment of children leads to parents having to commission independent professional reports to provide evidence to the Tribunal, which are very costly e.g. 1.5-2.5k for an educational psychology report, plus another 1-2k for a Tribunal appearance as a witness. This is beyond the means of

⁴ Draft Additional Learning Needs and Education Tribunal (Wales) Bill: Draft Explanatory Memorandum, p10.

most parents.

- **Obstruction of independent experts in collecting evidence for parental case for the Tribunal**
- **Failure of Tribunal to follow up on Tribunal Orders to obtain evidence necessary for the appeal hearing from schools and Local Authorities**
- **Lack of feedback to Tribunal on the consequences of the decisions it has taken, to inform future decision making.**
- **Wing members drawn from a very small pool of “experts”, which should be extended to include more specialist input outside Wales where:**
 - Complex cases are being heard
 - There is a significant danger that the Local Authority/School staff know the wing members
- **Because of all of these factors, only the most educated, articulate parents with the best access to professional support attempt to take on SEN disputes. One should also remember that parents of disabled children are already battling many other systems for support for their children (e.g. social services, Department for Work and Pensions, etc.), as well as dealing with the additional demands that their children make on the family generally. As a result, only the most determined will ever even realise that they are entitled to adequate provision, let alone find the time, energy and resources to attempt to secure it.**

Problems with securing the provision in the Statement

- **Statement wording agreed too vague to enforce the Statement when the provision is inadequate**
- **Lack of mechanism to enforce provision, other than judicial review which is not available in almost all cases, either due to weak statement wording or prohibitive expense (legal aid is not available except for families with exceptionally low income).**
- **Problems accessing information about what provision is being made by schools and healthcare providers, even where subject access requests are made**

IDP Pilot Process

I am also in the position of my child being in a pilot school for the IDP process and have taken part in it. The suggested IDP process is not robust and is not fit for purpose, for all of the following reasons.

Preparation of an IDP

Firstly, in the case of school age children, schools do not have the expertise required to determine whether a child does or does not have “additional learning needs”, particularly in the case of children like my son who has complex health and educational needs. He also has a rare condition, which education staff will not have encountered routinely. By definition, this requires a comprehensive assessment across multiple disciplines to determine what provision is necessary. It is concerning that it is delegated to school governors to make this assessment, with no additional funding or access to the requisite expertise. It is also problematic that it seems schools are empowered to make decisions that reassessment is not required if they consider that “no new information that materially affects that decision”: they would not have the expertise required to make that judgement.

One criticism of the current system of SEN provision is that there are significant differences in the approaches of different LAs in Wales, leading to a “postcode lottery” in provision for children and young people. This would then become a “school-level lottery”, in which individual Boards of Governors will be making their

own standards regarding when to prepare an IDP and determining what provision is necessary. This is obviously a retrograde step if the objective is to allocate resources on the basis of equal opportunity of access, regardless of location.

The requirement for schools to attempt to determine provision first before decisions may be passed over to a LA also adds an additional step to the bureaucracy associated with challenging decisions made. It is concerning that an appeal would need to be made first to a school and then to the LA on refusal to prepare an IDP or make revisions to it, extending the time taken considerably. The provisions describing the ability of schools to refer certain IDPs back to LAs for assessment also introduce an additional bureaucratic delay, where potentially it would be unclear which body would be dealing with the IDP until the matter was resolved.

The position in relation to pre-school children aged 0-5 remains unclear and the current duties on Health Bodies to bring children to the attention of LAs so that provision will be made is simply ineffective in my experience. I would recommend that the Welsh Assembly Government should look at preparing a detailed proposal to support early intervention for children identified as requiring additional support, to ensure that this can be delivered as early as possible in a child's life (see response in question 1).

The IDP review process

The next issue to consider is the process of preparing the content of an IDP. My child's school has piloted the provisions and uses 4 questions to produce an IDP:

- What is important to the learner;
- What is important for the learner;
- What is working and should be built on;
- What is not working and needs to change.

As parents, we found it very difficult to respond to these questions in a meaningful way. We consider that the more relevant issues that need to be determined at review meetings are as follows:

- What was the baseline of the child's performance in this domain (e.g. communication skills)?
- What SMART targets were set at the last meeting?
- What provision has been put in place over the past period? How was this tailored to the child's individual preferences for learning?
- What progress has the child made towards the targets, if any?
- Do the targets need to be revised for the next period?
- What provision should be made going forward to ensure adequate progress?
- How will progress be monitored and reported on?

The resultant meeting notes using the IDP questions consisted of some generic statements being elicited from those present at the meeting and written onto a flipchart for each of the questions. It was not possible to determine any of the above information and the actions arising were not clear. There was little discussion at the level of detail or depth required to get anywhere near to appraising the effectiveness of provision for him, let alone discussing anything related to his current statement of SEN. The meeting notes were just as vague and did not provide any means to discern how provision would be changed or what outcomes were expected. In summary, it was a waste of time (and resources, given the opportunity cost of having all of these professionals in the room) that could have been spent on more important and

pressing issues.

It is my view that the use of the “four question” IDP review format is flawed and serves to distract from discussing important issues in relation to progress and provision. I would recommend that the Welsh Assembly Government undertakes to rethink how the IDP review would be conducted. This is not fit for purpose and allows schools and health professionals to escape scrutiny and accountability for outcomes.

Content of an IDP

As described above, there is no comparison to be had between the rigour of the current assessment processes for statements and the planned IDP process. It is concerning that there appears to be no mandatory content stipulated for an IDP, nor is it explicit about which professionals should contribute to it. It is a particular oversight that there is no compulsion to include assessment by a suitably qualified educational psychologist. This seems wholly unsuitable, particularly for children with complex support needs.

Recommendations

The proposed changes are not fit for purpose and should not go ahead as set out. It would be more effective to focus more closely on the questions I have outlined as part of the review process:

- What was the baseline of the child’s performance in this domain (e.g. communication skills)?
- What SMART targets were set at the last meeting?
- What provision has been put in place over the past period? How was this tailored to the child’s individual preferences for learning?
- What progress has the child made towards the targets, if any?
- Do the targets need to be revised for the next period?
- What provision should be made going forward to ensure adequate progress?
- How will progress be monitored and reported on?

The IDP content must be closely prescribed by legislation and must be evidenced by the assessment reports of suitably qualified professionals. It is not acceptable to replace this by an informal series of discussions noted on flipcharts.

Parents should retain their current rights of appeal at each stage, and additionally be allowed to appeal if a school or LA refuses to amend an IDP.

A particular problem that arises for parents after statements have been issued at present is enforcing the provisions of the statement, i.e. ensuring that support is delivered as set out in the statement. This is particularly the case if statements are poorly and ambiguously worded, allowing LAs to effectively fail to deliver the required provision. Any plans, therefore, to allow “flexibility” to LAs or schools in defining provision I would regard as a retrograde step. The content of IDPs must be prescribed by statute and should be written unambiguously, so that there can be no doubt on reading it what support needs to be delivered.

In such problem areas as these, parents should not be charged alone with ensuring that the actors in the ALN system remain accountable, as happens now and will continue to happen in the proposed legislation. At present, LAs can rest easy, knowing that parents can only bring appeals in a number of very restricted circumstances and that otherwise, the only available remedy is bringing a Judicial Review. Neither process brings swift resolution and leads to delays in addressing

urgent problems. Since the tests for legal aid are so stringent, Judicial Review is actually not an option at all in most circumstances anyway, often leaving parents with no available remedy. To change this situation, a new culture of accountability is required, and with it a new system to ensure that best practice is delivered. The system should be regulated by an overseeing body to ensure legislative compliance and to define best practice, backed by the legislative powers to enforce this.

I would suggest considering extending the remit of the SEN Tribunal for Wales, so that it is given regulatory duties (and relevant new powers) to ensure best practice in the ALN system beyond appeals relating to IDPs. For example, the SENTW could hear complaints regarding non-delivery of provision in IDPs, having powers to investigate and to make orders requiring that the IDP is delivered in full. This would be a very big step forward in my view. In my son's case, his current statement is in dispute and it took almost a year for the parties involved (LA/school/NHS) to admit that the provision was not being delivered, let alone getting to a point where action could be taken. This lack of transparency and collusion is commonplace and is clearly contrary to the principles of natural justice.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/> X	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The current SEN statementing process does not work as efficiently as it should, as recognised by the need for the current consultation on changes to the system. As such, I welcome this review. It is my view that the current system does not function effectively because of the bureaucratic way that it is implemented on the ground, rather than because something is inherently flawed in the administrative system. Likewise, the poor level of adherence to the principles set out in the SEN Code of Practice and the lack of any regulatory function to ensure good practice guarantees that poor practice can flourish. At present, the only people holding LAs, Schools and the NHS to account are parents of children in the SEN system. While some parents try to uphold the rights of their children in the face of such practices, they need to be tenacious, resilient, educated and to have the time and resources to do so. You will be aware that many parents make great sacrifices to pursue this, at great cost to themselves (these costs having many dimensions, including opportunity costs). By definition, this means that only a very small minority of parents are able to do this. The draft ALN legislation does not provide a remedy for this.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
			X		

Supporting comments

There are significant issues that have been barely considered with respect to how agencies work together now and in assuming that this bill will result in better collaboration.

As long ago as 2006, the House of Commons Select Committee recommended that: “The landscape of local authorities and local health organisations is continually changing which makes it difficult to make specific individual recommendations about the way they should work together. We consider, however, that assessment of SEN should not be made directly by the bodies that fund the provision, and any revision of the system overall should take this principle on board. (Paragraph 161)” (recommendation 37)⁵

The principle of separating the assessment of SEN away from those that fund and provide resources in LAs and Health bodies has been recommended many times before by those representing the rights of parents and disabled children in SEN issues. This is absolutely crucial in ensuring that assessments are accurate and sufficiently detailed to reflect needs and the provision required.

A possible solution would be to remove the assessment role entirely from LAs, the NHS and schools and give these responsibilities to an independent body such as Estyn. This would also have the advantage of ensuring a degree of standardisation in assessment of needs, rather than the current postcode lottery that exists among LAs, particularly in terms of educational psychology assessments. It would also provide Estyn with a body of professionals who could assess SEN provision in schools more robustly than at present, where it is possible for schools with poor SEN provision to attain “Outstanding” assessments.

Educational psychologists are a crucial part of the assessment process, and it is concerning that they are not considered to be an integral part of the IDP assessment and review process.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

⁵ Select Committee on Education and Skills. Third Report : Special Educational Needs, HC 471 (2006)

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

In determining appropriate frameworks for resolving disagreement, it appears that the Welsh Government has not attempted first to find out why it is that parents find themselves in disagreement with their LA, schools and often NHS professionals (acting for the LA rather than in a neutral capacity) regarding assessment and planned provision for SEN. These issues are very well documented across numerous sources over a very long time period. For example, see Neil Duncan (2003) explaining why the metaphor of “fighting” is that most often used by parents to describe their relationship with SEN professionals in LAs, schools and the NHS⁶. Parents’ views, when documented by researchers over time, remain remarkably consistent in the problems they have identified in the SEN system⁷. The behaviour and attitudes of professionals involved in provision of education, health and social services within SEN processes has also been shown to present a barrier to working effectively with parents in the interests of their children⁸. Large scale cultural changes will be required for such professionals to view parents as full partners in decision-making, bringing their own expertise to the process (derived from their own lived experiences of managing their child’s condition). To imagine that this will happen without support is wholly unrealistic. I believe that this cultural change will only come via formal regulation of the planned ALN system, to ensure that best practice is adhered to at all levels and bring accountability into a system where the vast majority of the actors have traditionally acted with impunity.

It is also concerning that “disagreement resolution” is being mooted as a way to reduce reliance on tribunals. Since in my experience LA staff have no intention of listening to any argument put to it by parents, mediation merely delays the inevitable and gives the LA a “heads up” as to what arguments and evidence to expect at Tribunal. It is a leap of faith to imagine that a more formal process for mediation will have a different result without the widespread culture changes I have described. Having said this, I am willing to entertain this proposition in a set of very limited circumstances:

- The ALN system has an appointed regulator to ensure that best practice is enforced throughout (e.g. by enlarging the role of SENTW).
- The LA has no role whatsoever in funding or appointing independent advocates or mediators, to ensure their independence. Organisations funded by LAs are compromised in their ability to support parents/children and are reluctant to undertake true advocacy e.g. representing them against the LA at mediation and Tribunal.
- The independent advocates or mediators are very highly trained specialists in

⁶ NEIL DUNCAN (2003) Awkward Customers? Parents and Provision for Special Educational Needs, Disability & Society, 18:3, 341-356.

⁷ See Chris Gravell's summary article for Network 81 in 2000 here

<http://www.zen123082.zen.co.uk/Articles/tribunal.htm>. More recently, two further research reports into disagreement resolution via the tribunal process and mediation were conducted by Merton branch of Mencap in 2013 (see <http://www.mertonmencap.org.uk/pdfs/SEND-Tribunal-Survey-Results-August2013.pdf>) and SOSISEN in 2014 (http://www.sossen.org.uk/information_sheets/SOSISENResearchReport18Feb14.pdf). All documents were last accessed 14 December 2015 and it is remarkable that similar issues arise in all publications.

⁸ Jamie Bezdek, Jean Ann Summers, and Ann Turnbull (2010). Professionals' Attitudes on Partnering with Families of Children and Youth with Disabilities, Education and Training in Autism and Developmental Disabilities, 45(3), 356–365.

disagreement resolution, legislative requirements and in the technical detail of SEN provision.

- Independent mediators are appointed on the basis that they are seeking consensus and a fair outcome for all parties, particularly ensuring equality of opportunity to put a case forward e.g. all parties have access to the same information.
- Independent advocates are very clear that their role is to support parents/child in mediation, including fighting their corner as necessary and helping them to construct legal arguments/ detailed cases to defend children's educational rights. It would not be acceptable, for example, for an independent advocate to claim neutrality or act in such a way during mediation or in an appeal process.
- So that this is not used by LAs as a means of delaying access to tribunal, leading ultimately to delays in provision (which benefit no one but the budget holder), any mediation process should run in parallel with an appeal process leading to Tribunal i.e. it is not a substitute for it.
- If the LA and parents positions are already so entrenched that no compromise is possible (which will always be a common position), there should be a means of refusing mediation on the basis that there is no opportunity for formal compromise.
- Finally, should the mediation process fail or be incomplete in any way, the independent advocate will continue to support the parents/child in constructing their case for the Tribunal, including appearing as an advocate for the parents/child if this is necessary.

It would also be prudent for the Welsh Government to consider existing research and policy documenting parent experiences of disagreement resolution and consider whether these draft proposals would in fact have any impact on the key issues. The problems identified include the following:

"144. Statements are made up of three separate processes—assessment of need, allocation of resources, and placement. Problems occur at all three stages but the process itself is made even more complicated by the amalgamation of three constituent parts into one statementing process.

145. The major frustrations from parents can be summarised into the following categories:

- Local authorities being unwilling to make a statement;
- Assessment of need being inaccurate or undertaken by reportedly biased professionals who are not sufficiently independent from the local authority;
- Allocation of resources being insufficiently detailed/not specific enough. It is claimed that this is done on purpose to give local authorities "wriggle room" not to provide the services they are legally obliged to provide;
- Placement decisions are badly made—complaints are either that a child has been forced into a special school when a mainstream school should have been sufficiently adapted to be able to take them, or that a child has been refused access to a special school of choice either because the local authority was unwilling to fund that place or because it is trying to close that special school; and
- Transfer of statements is a major problem—when a child moves between authorities, statements cannot move with the child because each local authority has a different method of assessment and allocation of resources." ⁹

Some clear recommendations can follow from the problems identified and were

⁹ Select Committee on Education and Skills. Third Report : Special Educational Needs, HC 471 (2006)

already made by the Select Committee, as follows:

“26. There is an inbuilt conflict of interest in that it is the duty of the local authority both to assess the needs of the child and to arrange provision to meet those needs, and all within a limited resource. The link must be broken between assessment and funding of provision. (Paragraph 99)

27. There is a great deal of work still to do to pull together the disability and SEN agendas and legislation. The Government should be prioritising this important work. (Paragraph 110)

28. In light of evidence from witnesses that in many schools there is a significant lack of understanding of their duties under the Disability Discrimination Act and a failure to implement the Disability Equality Duty fully, we await improved and more specific guidance from the DfES which is due to be published shortly. Guidance should pay particular attention to ensuring that all teachers and staff have an appropriate awareness of their duties and that this is not left to a single disability officer within schools. (Paragraph 111)

34. It is better to seek to reduce reliance on statements by improving the skills and capacity of schools to meet a diverse range of needs, but this must be set in a system with much greater clarification and much stronger guidance on minimum standards of provision. Without such a system in place, guidance on "reducing reliance" on statements has led to the inequity of provision and "postcode lottery" that exists. This cannot continue. The sector needs much clearer guidance through a national framework with local flexibility. The Government needs to give local authorities clear national guidance on when to issue statements of SEN. (Paragraph 153)

36. Whilst recognising that it would require significant changes to the existing system, we recommend that the DFES consider how to make statements of SEN transferable between local authorities so that they can follow the child. We believe this would reduce administrative costs, allowing more resources to be devoted to SEN provision, and, more importantly, would prioritise the needs of the child. (Paragraph 156)

37. The landscape of local authorities and local health organisations is continually changing which makes it difficult to make specific individual recommendations about the way they should work together. We consider, however, that assessment of SEN should not be made directly by the bodies that fund the provision, and any revision of the system overall should take this principle on board. (Paragraph 161)

39. The lack of a ready-made alternative is not a good enough reason to keep a failing system of statementing. If SEN was given sufficient priority this would not be allowed to continue. It is the responsibility of Government to devise better processes for SEN—not necessarily in one statement—and to implement them. This should involve the early identification and assessment of needs, efficient and equitable allocation of resources, and the appropriate placement of pupils based on their needs and taking account of parental preference. We request a specific response from the Government on this issue. (Paragraph 163)

40. Where good practice exists in local authorities the level of parental satisfaction improves greatly. A National Framework of guidance should be put in place based on best practice of local authorities. [...] (Paragraph 170)

42. While some local authorities have made good progress in managing SEN in recent years, there remains much variation in performance and some poor practice. Clear statutory guidance is in place but local authorities are then told only that they must "have regard to" the SEN Code of Practice. Non-statutory guidance then further muddies the waters. Local authorities have a crucial role to play with SEN but the operation of good practice must become the norm. (Paragraph 177)

45. The Government should give careful consideration to the impact that key drivers such as league tables are having on admissions—particularly to the most successful non-selective state schools. There is strong evidence that the existing presentation of

performance data in league tables does not reflect well on many children with SEN and consequently acts as a disincentive for some schools to accept them. This cannot continue. (Paragraph 182)

46. Children with SEN and disabilities should have fair access to all types of provision. The Government should do more to encourage the most successful non-selective state schools to take their fair share of children with SEN and disabilities. Admissions policies in this matter should be carefully monitored with a requirement to report back on progress to Parliament and to this Select Committee. Furthermore, the Government should ensure the protocol for hard to place children makes specific reference to children with SEN and disabilities. (Paragraph 183)

47. The existing DfES policy regarding the placement of children with SEN is good in theory, but in practice parental choice is not being upheld. Where a special school is sought by a parent this must be given proper consideration. Where a mainstream school is sought by a parent, a local authority must consider whether reasonable adjustments could be made to ensure that their admission could be made compatible with the efficient education of other children in the school. (Paragraph 192)

48. We recommend that in the new Code of Practice on School Admissions, children with SEN and disabilities should be given explicit priority in over-subscription criteria. (Paragraph 193)

49. As long as the choice of parents of children with SEN continues to be qualified by whether it is compatible with the efficient education of other children in the school, the final decision-making power regarding placement will remain out of the hands of parents and we do not suggest that this should be changed. This is appropriate where expert independent advice has been sought but should be the exception rather than the rule. There is a great deal more that could be done to increase involvement from parents: to seek their views and understand their choices more carefully, to work in partnership with them as much as possible, and to ensure they are fully informed at all stages of the process. Careful consideration should be given to parent-partnership schemes being funded independently of local authorities being trialled on a pilot basis. The system should not have to rely on an appeals process to achieve fair access for children with SEN. (Paragraph 194)

54. Parents must have the right to appeal against decisions made regarding the education of their children. All parents and legal guardians must have equal access to the appeals process. Evidence suggests this is not the case at present. The Government is responsible for ensuring steps are taken to guarantee equal access to an appeals process for all parents and guardians; in doing so it should give particular attention to the access of parents from low socio-economic backgrounds, parents with SEN themselves, and the fair representation of looked-after children. The Government should start to collect data on the background of parents at tribunal, and on expenditure in relation to outcome. (Paragraph 220)

63. The fundamental problems in the statementing process that prevent funding from following the child should be resolved as a matter of urgency. (Paragraph 249)

65. The Government need to take a lead and develop an overarching strategy for SEN in order to set minimum standards for children with SEN—whilst maintaining local decision-making powers—to give a clear lead on policy direction for the sector to follow. (Paragraph 255”

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory

Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Sorry, with limited time available it was not possible to consider any other documents. If you are serious about involving parent-carers in consultations, in future, perhaps consider the difficulties that arise for this group in finding the time and energy to respond in detail to complex documents within a limited time frame. One way of circumventing this would have been to run a series of focus groups and to use a semi-structured questionnaire, to ask parent-carers what the key issues are that they would like to see resolved in any new legislation in this area.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Section 39: “Case friends”

Why, in most circumstances, would you want to encourage children to bring cases without the support of their own parents? What is it hoped would be achieved by this, save for attempting to drive a wedge between the parents and child? There are serious questions to be asked regarding the ability of parents to discharge their responsibilities to ensure that their children receive a suitable education in the situation where a case friend is supporting their child. Given that they do have these responsibilities, it is wrong to side line parents in this way from the process of determining what educational provision is in the best interests of their child. It is a situation that would never be tolerated for typically developing children, so one has to wonder why it is deemed especially important for children with disabilities to determine their own provision.

This is a dangerous and easily manipulated situation, which is best illustrated with an example. My friend's son with intellectual disability, let's call him Alex, needs an operation to correct a problem with his eye. The health professionals bypass his mother and ask him directly “Would you like to have an operation or would you prefer to leave it for now?” Alex does not hesitate to say that he would not like the operation. His mother, understanding better how Alex is likely to respond under

questioning, asks a follow up question “Alex, would you like to be able to see properly again?” Alex says yes. His mother follows up with “Well if you want to see properly, you will need to have an operation, Is that ok?” He says yes.

Responses from any child are malleable and open to manipulation depending on how questions are asked of them. I would add to this that for children with learning disabilities, there are also issues around comprehension that would need very careful consideration. It is difficult to believe that a case friend, no matter how well meaning, would be a better judge of how best to approach enabling a child to genuinely express their opinions than a parent. Once the “case friends” are not actually independent persons, but are actually teachers, local authority employees or others involved in resource decisions, these issues begin to look critical in determining whether these proposals have any legitimacy at all.

Other issues

While this draft legislation has proposed a number of solutions to problems that never actually existed, the real problems exposed within the current SEN system have not been addressed (either here or in the recent changes to English legislation). They are very well-documented and I have left references throughout to these sources. Some key issues are as follows.

- Assessment of need, allocation of resources, and placement decisions are conflated together in the current system of SEN provision. These different decisions need to be dealt with as separate processes.
- Assessments of need and recommendations regarding placements must be conducted by bodies who are independent of those allocating resources. This is a central principle in ensuring independence of such assessments and recommendations. They must not only be independent, but be seen to be independent if there is to be any confidence in the system.
- Any independent mediation or advocacy services must be independent of LAs, including in terms of how they are funded. These services must provide the services that parents/children need, including representation at Tribunal should this be necessary.
- Tribunal processes themselves are neither “parent friendly” nor “accessible”. This should be recognised and support put in place for parents and children to help with constructing cases and upholding educational rights.
- This should extend to providing access to independent experts to obtain assessment reports. Tribunal appeal cases have a zero chance of success without good quality expert evidence to counter the arguments made by LAs and their School and NHS colleagues. This expert evidence is very expensive: e.g. an educational psychology report costs between 1500-2500, plus more for tribunal attendance. Other expert reports vary considerably depending on the skills and expertise sought. For a child with complex needs, it would be very easy to spend 5000 or more just on expert evidence to support an appeal. This is a very considerable barrier to deter many parents from making an appeal in the first place.

I will leave the last words to parents who are veterans of the SEN system¹⁰:

Parent 1

¹⁰ E-SENtials blog: <http://educationandrights.blogspot.co.uk/2013/12/children-and-families-bill-letters-from.html>

"I definitely feel that I suffer(ed) PTSD and I don't think that's exaggerating at all. You feel like a civilian who's been dropped into a war zone and told to start fighting - for your child's future.

I still felt very unsettled for a couple of years after my battles were over. I was always expecting victory to be snatched away or for something to go terribly wrong. And although time does numb the memory of the bad bits that state of enhanced vigilance never really leaves you. It does make you a very different person."

Parent 2

"My husband had a very PTSD reaction. He was depressed I realise now for quite a while after the Tribunal win. It was the injustice of it, the lies and deceit about a child who needed help desperately.

There was some research done a while ago by a lawyer who did medical negligence cases which showed that people were more likely to get PTSD as a result of a medical injury than a road traffic accident even if they had similar physical injuries. Its to do with the trust, the fact you trust a doctor and being let down by someone you trust is worse. Often victims needed counselling to get over the loss of trust e.g. some became hospital / doctor phobic, as much as recovering from the actual injury caused. The research shows being let down by the very people who are employed to help you triggers PTSD type responses.

I feel the distance from other families too. And it's not them that has changed or that they are less friendly, it's me. I hear their worries about their children and they just sound so trivial. That's not their fault, I used to worry about trivial things too, now it has to be major to even register on our family richter scale. When one of my sons was diagnosed with diabetes this year was easy, I didn't even cry, I just realised it was something that could be dealt with. There was a clear evidence based plan, accurate prompt advice, endless medical supplies and everyone was nice. I haven't even read a book about diabetes yet. It's nothing like being left for months feeling desperate and helpless and watching your child get worse and no-one expressing a view about anything in case it implies they should spend some money.

My neuro-typical kids are going to be so resilient as adults. Anything less than catastrophic has become no big deal in our house.

For me it's the stress I still find hard to manage. It took months to realise the lengths the LA would go to as it only became apparent bit by bit. So my stress levels went up bit by bit over many months. Whereas now I know what they are capable of so it's like I constantly live my life on the edge and the slightest thing they do or even a simple meeting and I am right back at level 10 stress levels, there's no gradual build up. Just constant vigilance ."

Parent 3

"Yes to the loss of trust, the stress, hyper-vigilance, and to the distance from other families. Yes to resilience of all the children to many things that would bother others, to calm acceptance of most non-catastrophic events, and my own 'war veteran' permanently changed personality.

I suspect many parents in the SEN maze have an even worse experience than that faced by many victims of medical error. Because although the consequences of negligence are devastating, it's usually not done on purpose. Most health disasters are individual level, accidental slips, judgement mistakes, or else due to work-overload exposing various massive flaws in the organisation of a particular department or system.

NHS cover-ups do happen, large-scale institution failure is not uncommon and some trusts are a disaster waiting to happen... but there's usually another nurse, doctor or physio somewhere to try and patch things up.

Deliberate withholding of information, dirty tricks, spurious social services referrals, giving misleading reports to other professionals, denial of blatantly obvious problems, unjustified withdrawal of provision and constant, outright, bare-faced lying... this lot seems to be reported almost routinely by SEN parents, particularly if a child is complex and/or has ASD. We even laugh about it. Yet no-one has suggested that even the worst of the scandal-hit NHS trusts routinely treated most patients like this"

Parent 4

"It's also hard to feel good about a Tribunal victory like this. You haven't won anything. You've achieved baseline, adequate. You've fought so hard for something very basic that until you began fighting you had assumed was a given as the legislation and published documentation implies.

You won't ever forget what you have seen in your war.

I 'won' an election to become a parent governor. I worked hard on my statement and a little canvassing. My 'victory' has not left me shell shocked. It has left me proud of myself and excited. You cannot possibly feel either of these things with your victory as you weren't fighting FOR something good but against something evil."

Parent 5

"My son was left languishing outside the school system after his placement broke down because of his disabilities. Everyone involved with him agreed he needed alternative provision. Yet it took 6 months, an LGO complaint and the threat of judicial review to get the LA to do anything.

In the meantime, I stopped work. I taught my son myself. We used our savings to employ a tutor for as many hours as we could. And we waited while the LA wrangled with anyone they could to avoid paying for our son's education. In the process, it tried any tactic it could to blame us for our son's lack of education and then the delay despite the unanimous support and agreement of every professional involved, including my son's school. And this is a Pathfinder Champion.

The pressure on our family has been intolerable and we have learnt to focus on what is really important in life but we have seen the underbelly of a system which my solicitor describes as 'not fit for purpose'.

It feels like my son is nothing but a burden to the education system. Instead of valuing him and supporting him and developing his strengths and talents, he was simply left to rot. Without us, he would have nothing. But who cares? He's only a 'SEN' kid after all. Who would accept this for any other child?

It seems to me that you stick a 'SEN' label on a child and it's permission to fail to them. Getting our son the educational provision he is entitled to do did not feel like a victory. We were left feeling shell-shocked and I will never forget what those paid to help us were prepared to do to get out of providing him with an education."

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Additional learning needs & draft Bill – consultation response

My name -

I am a parent of a young adult with complex learning and communication difficulties.

My responses to you '10 Aims'

Aim 1 – you must not focus solely on learning needs. Children with Down's have many health and disability problems (poor fine and gross motor difficulties, problems with balance & proprioception, difficulties with speech and language). All of these are educational needs too. How can you learn to write if you don't get input from OTs and physios? How can you gain oracy skills without input from Speech and Language Therapy – case law has said that speech therapy is an educational need.

Aim 2 – Yes, I agree young people up to 25 should be supported.

Aim 3 – No.....there needs to be more than 1 plan. Statements are often poorly worded and are not properly updated over time. School staff are complicit with the LEAs.....and do not properly specify and quantify provision. I was very glad that my son had a proper and up to date section 140 assessment when about to leave school.

Aim 4 – Agree, young people and their parents/carers should be actively involved – and listened to – in all decisions. We know our children better than anyone.

Aim 5 – Agree.....but there should be high expectations and appropriate –but stretching goals set for children. IDPs must be of a high standard. My son's was not.....even though he was in a special school rated 'excellent' by ESTYN, his termly IDP had only 2 very simple goalswhich hardly ever changed and we the same as everyone else's in his class.....they were not personalised. Teachers told us 'don't worry, boys don't read'. And they said they didn't have enough time for him to practice writing his name a few times each day. So he's left 10 years of special education unable to write his name.

Aim 6- agree.

Aim 7 agree.....provided health professionals (eg SALT) stay hands-on involved with reviews and target-setting and do not be so ready to discharge children by simply saying 'the teachers have been trained in speech therapy'. There is a real problem here.....why is it that my son only got

diagnosed with autism at age 19 after he left special school.....and why do other young people only get picked up with dyspraxia when they arrive at college???

Aim 8 I agree with the aim.....but am extremely concerned that the statementing system (which gives legal protection is going).

Aim 9 – agree.This is very welcome.

Aim 10 – Agree, the Code needs revising.

My other comments on the Bill – issues re Specialist Residential College funding/placements (ISCs)

Please, please keep the current arrangements.....it was vital that my son had his s140 assessment so that his current needs were taken properly into account. And the assessment was done ‘independently’ of the school by Careers Wales. I want to Welsh Government to keep hold of the ISC funding.....if this goes over to the LEAs as part of the general and UN-RING-FENCED revenue support grant, then young people like my son may well lose future funds.....councils are under huge financial pressure and our families are a ‘soft-target’ for cuts.....we are few in number and always tired and stressed from caring. Please keep the funding protected and with you. LEAs will struggle with taking on the work anyway.....a lot of LEAs are very small (eg Merthyr) and your work is unique and very specialised. Council staff are getting cut back....and their minds will be on reorganisation.

Also – please recognise how vital the opportunity of residential learning is.....for young adults with complex needs THE most vital thing they need to learn is how to socialise and communicate.....this is essential for them to have as normal a life as possible.....promote their independence, overall well-being, and make them less vulnerable. All of the ISCs need to be made viable.....if any facility in Wales is lost it will be a tragedy.....they will never get replaced. Going to a local day college- no matter how good – will let young people learn to live alongside others and start to cope away from their often-aging parents. The 24-hour curriculum lets those with learning difficulties practice the skills they learn in the class.....and they learn through practice, practice and practice.

I am happy for my response to be made public if you wish.

ENDS (Three pages)

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:
e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input checked="" type="checkbox"/>
	Other	<input type="checkbox"/>

I am the parent of two 16 year old children with SEN/ALN. My children have SEN/ALN and have had statements since 2006. The first statutory assessment was conducted in 2005 but it took a year for a meaningful statement to be finalised.

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The existing term, Special **Educational** Needs, clearly conveys that the focus is on **educational** needs.

The terms ALN and ALP conveys that the focus is on **Learning** needs rather than educational needs.

Changing the culture is more important than changing the terminology.

Changing the terminology will not change the culture.

The culture can only be changed if there is radical structural change.

To accelerate culture change throughout Wales and remove the variation between authority areas there needs to be an overarching all-Wales ALN/SEN centre of excellence, as a minimum responsible for advising/auditing the processes/provisions taking place within schools and authorities thereby ensuring that children are not disadvantaged by where they live due to the approach taken by the local authority &/or school.

It is a mistake to make distinction between children and young people. Children with SEN/ALN choosing to continue their education beyond the age of 16 are disadvantaged by the removal of the duty to involve (and support) their parents. Due to the nature of SEN/ALN young people will tend to need and rely on parental support for longer than their peers, it is damaging to remove parents from the recognised team 'working together' at a key stage in a child/young persons development. The involvement of parents is not detrimental to the involvement of the child/young person. Therefore the Bill does not deal properly with children/young people aged 16-25.

The exclusion of maintaining IDPs for young people with SEN/ALN continuing into Higher Education until 25yrs of age effectively discriminates against this group. If Higher Education is to be excluded from educational establishments where the IDP is maintained, the legislation needs to set out who is responsible for drawing up the transition plan to Higher Education, providing information for accessing funded support in Higher Education, and what the transition plan must include.

Therefore the Bill does not deal properly with children/young people aged 16-25.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree

Disagree

Neither agree nor disagree

Supporting comments

There is no legal process specified to replace the current Statutory Assessment and Review processes. There is no legal format/framework for the IDP. Governing Bodies will not necessarily have the appropriate knowledge, experience or expertise to decide whether a child or young person has SEN/ALN. As there is no process for them to follow or requirement to have their decisions audited this will lead to variation from school to school. This is unsatisfactory and is not robust.

Our experience is that both Local Authority and Schools have sought to avoid recognising SEN/ALN and avoid providing meaningful statements. The Local Authority has failed to complete Statement reviews for a number of years and there is nothing in the new Bill which would prevent similar issues arising.

The problems seem to arise due to the process owners not being the key stakeholders in the child/young person having the artificial barriers to success removed and so having the opportunity to achieve their potential. Therefore I support the concept of moving the responsibility to those directly involved with the child **BUT** feel that they will need to be supported by specialists independent of the Local Authority (e.g. an All-Wales centre of excellence) who would be available to guide schools through the process, provide educational psychologist assessment and advice and signposting to other specialists who need to be asked to assess/provide advice on a case by case basis. It makes far more sense to put the effort in proactively in the form of independent support and guidance, rather than relying on the tribunal process to sort out poor practice. This approach will foster consistency between educational establishments and positive collaborative working together rather than the current confrontational approach which leads to disagreements and Tribunal.

There needs to be the requirement for Audit of both the process and the quality / consistency of IDPs and their implementation. This aspect of audit needs to be included in the legislation.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree

Disagree

Neither agree nor disagree

Supporting comments

In our experience Parental involvement has been essential to ensure the interests of our children with SEN/ALN are protected and promoted. Excluding parents of

children once they reach 16 years old is not in the young person's best interest and will not help to ensure that the interests of 'young people' with ALN would be protected and promoted.

There is still very poor recognition and understanding of 'hidden disabilities' and the need for appropriate provision, especially when children have above average IQ. I cannot see anything in the Bill which would specifically help to ensure that the interests of children and young people with ALN would be protected and promoted.

I am concerned that in many instances within the Bill the phrase 'The Regulations **may** . . .' is used rather than **must** or **will**. Indeed it would be more robust to just omit the word 'may' and state '**The Regulations make (or include etc) . . .**' and draw up the regulations without the use of 'weasel words' to help to ensure that the interests of children and young people with ALN will be protected and promoted.

The requirement stated in clause 4(3) for the persons listed to merely 'have regard to any relevant guidance contained in the code' is weak and inadequate. 'Having regard to' effectively means that the guidance can be disregarded rather than followed. Our personal experience is that the Local Authority will not follow guidance that is not mandatory. They have disregarded much of the advice and guidance in the current code of Practice which has caused us much stress due to unresolved disagreements. To remove opportunities for any of the persons listed in 4(2) avoiding following the advice and guidance in the code the new Bill must not use the phrase 'have regard to'. In clause 4(3) replacing 'have regard to' with 'follow' or 'comply with' would improve the chance that the interests of children and young people with ALN would be protected and promoted. This would support the statement in Chapter 1, point 4 of the draft code that ' . the Code provides statutory guidance Relevant persons **are required to** follow the statutory guidance . . '. In fact it would be much better if the points from Chapter 1, points 4, 5 & 6 were in the Bill.

I understand that the intention is for the new Code of Practice to be mandatory (in parts), but in the draft there are still a lot of occasions where 'should' is used where 'must' ought to be used to ensure that the interests of children and young people with ALN would be protected and promoted. How will the mandatory aspects of the code be determined? – will there be consultation regarding this? Clause 5(1) of the Bill suggests this may not be a public consultation, however the draft code (page 6) suggests there will be a full public consultation. It would be preferable for the consultation to be inclusive of all the stakeholders (ie. to include children and young people, parents and parental partnership services, and Health / medical professionals as well as those listed in clause 5(1) (a-d)). I believe that as a minimum the organisations which provide the Disagreement resolution service must also be included in any consultation regarding a draft code of Practice and should be listed in clause 5(1).

Section 14 relies heavily on good collaborative working to ensure that the interests of children and young people with ALN would be protected and promoted. I understand why the Health board or Trust would want to agree what provision they will secure but perhaps it ought to be stated here the duty for positive working together and that their agreement for provision identified to be in the best interests of the child/young person is not to be unreasonably withheld.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Whilst the Bill contains a section 'Participation and access to information' (which talks about involving children, parents, young people) I do not think that the requirement for all involved to work together in positive collaboration is clearly communicated.

I think that a short additional section setting out the **duty** for positive collaborative working, including effective problem solving, between all parties should be included. This is needed to achieve the culture change necessary.

The primary importance of positive collaborative working needs to be emphasised. Collaborative working together must include all parties (ie: child/young person, parents (whatever the age of the child/young person), school, Local Authority, Health professionals, Educational Psychology etc). Done well it will mean that disagreements will be less likely and more easily resolved without needing to access the formal disagreement resolution service identified in section 37(3), or ultimately tribunal.

Whilst the existing legislation & code ought to mean that disagreements are quickly recognised, addressed and resolved, our experience is that the Local Authority does not engage positively with the process. This is because it is not mandatory. This has caused us a great deal of stress for a number of years.

Local custom is for the Local Authority to only agree to disagreement resolution once a parent has lodged an appeal to the Tribunal. This is contrary to the concept of collaborative working together and contrary to the code of practice. Because this way of working is an inherent part of the existing culture, there is a need for a change of culture to be imposed by a mandatory duty, to work collaboratively and engage promptly and positively in disagreement resolution, being clearly stated in the Bill.

There should be something in this additional 'working together' section about managing situations where the school attended is outside the health area boundary. This our experience: the barriers to working together (school & health professionals) have not been resolved and this has been detrimental.

Sections 9, 10, 12 & 14 need to state that it is the duty of all to work in positive collaboration with the all the other parties.

It is very worrying that the Draft code of practice in chapter 13 on multi-agency working paragraph 328 does not state that it is mandatory to work together in the best interests of the child, using the word should instead of 'must' (it ought to read "A key principle of this Code is that all those involved in providing support to children and young people with ALN **must** work together in the best interests of the child or young person (see Chapter 2). All professionals involved in supporting the needs of the child or young person **must** support the principles of person-centred practice.")

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Supporting comments

Whilst section 37(1) and 37(2) suggest there is a mandatory duty to take actions to avoid and resolve disagreements the word should (instead of must) is again used in the code of practice in paragraphs 454 & 455.

The basic principle seems to be stated adequately in the Bill, however this will require a huge cultural shift on the part of the Local Authority, who in our experience have refused to work to resolve significant disagreements in a timely way, refused to communicate constructively with parents and avoided and refused to engage with Disagreement Resolution.

Close monitoring /audit of the Local Authorities performance in regard of actions for avoiding and rapidly resolving disagreements, with penalties for poor performance in this, could help to promote the necessary culture change.

Whilst I support the child and young person having a voice and being central to the process, I believe it is wholly unreasonable for a young person with SEN/ALN from the age of 16 to have to take the responsibility for making an appeal to Tribunal regarding a dispute.

Children with certain disorders are, due to the nature of the disability, less mature than their peers for their chronological age. It would be incredibly stressful for a young person to have to take this responsibility, which would be very detrimental. It should not be a cliff edge at a child's 16th birthday to have the support of their parents sidelined, or their parents disqualified from being able to lead an appeal.

It is acknowledged that Parents have a key role and expertise and in-depth knowledge concerning their child – this does not cease on their 16th birthday. Parents are most likely to genuinely want what is in the best interests of the child/young person and the provision of a 'case friend' or other advocate is not a substitute for their unique intimate knowledge of the child/young person. As a minimum safeguard if a young person wishes their parent to make the appeal to Tribunal on their behalf this must be allowed.

As mentioned previously I feel it ought to be clearly stated what the regulations do actually cover, therefore the inclusion of the word 'may' seems inappropriate in regard to references to Regulations in sections 40 & 41.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The work-load for schools and for ALNCos in particular will be very high. It is unlikely that governing bodies and SENCOs have all the necessary expertise, knowledge and experience or resource capacity to take on the additional responsibilities devolved to them. There is already a huge variation on how well appropriate provision is identified and made. It is likely that this will get worse at least in the short to medium term unless schools have access to 'centre of excellence' style consultancy support. It would be beneficial for this support to be independent of Local Authorities and a single centre for all Wales could ensure equality of dissemination of best practice. This would also ensure that schools do not just habitually refer everything back to the LA on the basis that they do not have the capability. This is particularly important as the LA is not obliged to step in as Section 19(4) indicates this is discretionary.

There is nothing in the Bill about audit to ensure the quality of IDPs is good in all establishments. It still appears it would come down to the child, parent or young person to effectively perform this function by raising concerns and, if these are not adequately addressed, taking an appeal to Tribunal. It would be much more reasonable, and in keeping with the aim to move away from the old confrontational approach, for there to be an **independent Audit** body to assess the quality of IDPs, similar to the way that Estyn audits schools through periodic inspections. A selection of IDPs from each school should be reviewed according to a regular schedule by an Independent expert body, similar in standing to Estyn. The quality of the schools IDPs could be rated to help schools drive improvements. This audit would aid a proactive approach to achieving high aspirations and improved outcomes through a positive proactive feedback cycle rather than only relying on a reactive response to unresolved & probably protracted disagreements, ie Tribunal.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

X

Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb

i'r

ymgyngoriad

Eich enw: Emily Cole

Sefydliad (os yw'n berthnasol): Menter Iaith Cymru

e-bost / rhif ffôn:

Eich cyfeiriad:

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol	<input type="checkbox"/>
	Arbennig	<input type="checkbox"/>
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliadau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliadau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau lechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliadau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliadau'r trydydd sector	<input checked="" type="checkbox"/>
	Unigolion	<input type="checkbox"/>
	Arall	<input type="checkbox"/>

Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input type="checkbox"/>	Anghytuno	X	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'n egwyddor gwbl sylfaenol y dylid gweithredu'r cynigion yn gyfartal trwy gyfrwng y Gymraeg a'r Saesneg, yn unol â dymuniad y plentyn, person ifanc a/neu riant.

Mae diffygion sylweddol iawn yn y ddarpariaeth cyfrwng Cymraeg ar gyfer plant a phobl ifanc gydag ADY ar hyn o bryd, a hynny'n aml oherwydd diffyg capaciti/arbenigedd o fewn y gweithluoedd perthnasol. Bydd ymestyn yr ystod oedran yn debygol o waethygur sefyllfa, er ei fod i'w groesawu mewn egwyddor.

Rhaid cofio, ymhliith y grŵp oedran cyn-ysgol yn arbennig, bod plant sy'n uniaith Gymraeg. Byddai unrhyw asesiad o blentyn uniaith, neu unrhyw ddarpariaeth ar ei gyfer yn gorfol bod yn y Gymraeg i fod yn ystyrlon.

Ni theimlwn fod sylw dyledus wedi'i roi i'r mater ganolog hwn yn y Bil ei hun (o ran yr egwyddor o weithredu'n gyfartal drwy'r ddwy iaith) nac yn y dogfennau cefnogol (o ran yr anghenion datblygu o fewn y gweithlu).

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input type="checkbox"/>	Anghytuno	X	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

O ran creu fframwaith cyfreithiol cadarn, nid oes unrhyw gyfeiriad yn y Bil at egwyddorion Mesur y Gymraeg (2011) sy'n datgan na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg. Dylai egwyddorion cyfreithiol y Mesur fod yn ystyriaeth drosfwaol i'r ddeddfwriaeth arfaethedig.

Dylai'r broses gynllunio – ynghyd â phob cam arall yn y broses – fod ar gael yn gydradd

drwy gyfrwng y Gymraeg neu'r Saesneg, yn ôl dewis iaith y plentyn/person ifanc a/neu rhieni. Dylai'r egwyddor honno gael ei nodi'r glir ar wyneb y Mesur fel gofyniad statudol.

Os nad oes modd i'r broses gynllunio ddigwydd yn newis iaith y plentyn/person ifanc a/neu rhieni, mae peryg eu dieithrio o'r cychwyn. Gellid dadlau yn ogystal bod peryg o gamwahaniaethu.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'n bosib bod y Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo, ond nid oes unrhyw sicrwydd bod hynny'n wir mewn perthynas â phlant a phobl ifanc sydd am gyfathrebu drwy gyfrwng y Gymraeg. Yn wir, mae risg gwirioneddol o wahaniaethu yn eu herbyn.

Cofier bod Mesur Hawliau Plant a Phobl Ifanc (Cymru) 2011, yn ogystal â Chonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn (CCUHP) yn cwmpasu gofynion ieithyddol.

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae gwaith aml-asiantaeth yn aml iawn yn golygu bod popeth yn digwydd yn Saesneg. Mae'r Byrddau Iechyd yn arbennig yn duedol o fynnu derbyn pob dogfennaeth yn Saesneg, neu'n bygwth y bydd oedi yn y broses i ganiatáu am gyfieithu.

Mae'r math hon o gyfundrefn yn gorfodi pobl i ddewis rhwng derbyn gwasanaeth prydion ar y nail law, neu wasanaeth Gymraeg ar y llall. Mae'r holl broses yn creu anghymhelliaid cryf iawn rhag defnyddio'r Gymraeg. Dylid cynnwys dyletswydd ar wyneb y Mesur ar yr asiantaethau i gydweithio a rhannu gwybodaeth yn y Gymraeg os mai dyna dymuniad y plentyn/person ifanc/rhieni.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Dylid cyfeirio'n benodol at yr hawl i gael ymwneud â phrosesau datrys anghydfodau ac apeliadau at y Tribiwnlys drwy gyfrwng y Gymraeg.

Mae cyfeiriadau yn y Cod drafft at '*suitable form*' a '*plain language*', ond dim cyfeiriad at gyfrwng iaith y prosesau.

Cwestiwn 6 – Dogfennau ategol

A fydd ech cystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Nid oes unrhyw un o'r dogfennau ategol yn cydnabod bod problemau systemig o ran sicrhau darpariaeth anghenion dysgu ychwanegol yn y Gymraeg. Nid ydynt ychwaith yn cydnabod pwysigrwydd sicrhau bod cymaint â phosib o'r prosesau yn digwydd drwy gyfrwng y Gymraeg yn unol â dewis iaith plant, pobl ifanc a/neu rieni. Nid ydynt felly yn cynnig unrhyw ffordd o fynd i'r afael â'r anawsterau a'r gwendidau hyn.

Annealladwy felly yw datganiad yr Asesiad o'r Effaith ar y Gymraeg;

"Bydd y Bil drafft hwn yn sicrhau y cynllunnir yn well ar gyfer anghenion dysgwyr ag ADY, gan gynnwys y rheini sydd mewn addysg cyfrwng Cymraeg, ac y bodlonir eu hanghenion yn well, a hefyd bod darpariaeth i fodloni ystod ehangach o anghenion yn cael ei diogelu'n statudol."

O ran y Cod, mae'r cyfeiriad ym mharagraff 14 at Safonau'r Gymraeg yn annigonol. Er bod Awdurdodau Lleol yn dod dan gwmpas y Safonau, nid yw'r safonau'n gyson o un Awdurdod i'r llall ac felly ni fyddant yn creu darpariaeth gyson ledled Cymru o ran y gyfundrefn ADY. Yn bwysicach byth, nid yw ysgolion yn ddarostyngedig i'r Safonau.

Dylai'r Cod nodi gofynion mewn perthynas â'r Gymraeg yn y meysydd canlynol:

- yr hawl i gael darpariaeth Gymraeg ac ymdrin â'r prosesau drwy gyfrwng y Gymraeg, gan gynnwys prosesau aml-asiantaeth
- parchu dewis iaith y plant a'u rhieni, a phobl ifanc wrth annog cyfranogiad yn y broses, a chamau ymarferol y dylid eu cymryd i hwyluso hynny
- darparu'r wybodaeth a chyngor y cyfeirir atynt yn y Gymraeg –ar bapur, yn

electronaidd neu ar lafar

- nodi (a) cyfrwng iaith addysg y plentyn/person ifanc (b) dewis iaith cyfathrebu'r plentyn/person ifanc a'i rieni o ran cynnwys gorfodol y Cynlluniau Datblygu Unigol
- yr hawl i gael ymwneud â phrosesau datrys anghydfodau ac apeliadau at y Tribiwnlys drwy gyfrwng y Gymraeg, gan gynnwys eiriolaeth annibynnol

Dylai'r rhain oll fod yn ofyniadau gorfodol yn y Cod Ymarfer fel bod eglurder yng Nghymru y cyfrifoldebau, y dyletswyddau a'r hawliau. Yn dilyn egwyddor sylfaenol Mesur y Gymraeg (Cymru) 2011 na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg, ni ddylai darparu neu weinyddu'r broses yn y Gymraeg olygu oedi, na gwasanaeth israddol mewn unrhyw ffordd i'r defnyddwyr.

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanyst.

Mae yna ddiffyg sylfaenol yn y Bil drafft. Mae wedi hepgor yn llwyr unrhyw sylw at natur ddwyieithog Cymru – does dim sôn o gwbl am yr hawl i wneud defnydd cyfartal o'r Gymraeg a'r Saesneg nac i gynnal prosesau'n ddwyieithog.

Byddai deddfu ym maes Anghenion Dysgu Ychwanegol heb gyfeirio at yr angen i gymryd i ystyriaeth anghenion a dewisiadau ieithyddol y plant/pobl ifanc dan sylw yn esgeulus ar y gorau, ac o bosib yn codi cwestiynau cyfreithiol pwysig.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrwyd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:



Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: Keri Cole

Organisation (if applicable): Caerphilly CBC

e-mail/telephone number:

Your address:

Responses should be returned by **18 December 2015** to:

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Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	--------------------------	----------	-------------------------------------	----------------------------	--------------------------

Supporting comments

Definition of ALN

- More clarity is needed around the definition of ‘disability’ – does this link to the definition of disability in the Equalities Act?. If Governors / Head teachers are responsible in the first instance for deciding whether a pupil has ALN, the definition is not helpful as it is open to interpretation.
- There is a lack of any definitions / thresholds in relation to a graduated response
- Health and Social Care have different understanding / definition of ‘disability’ – there needs to be a common understanding across agencies.
- The definition needs to incorporate the broad range of reasons why children might have difficulties in relation to learning. This should include emotional readiness for learning and their social and emotional wellbeing.
- Will PLASC information still be collected & will there still be a register of pupils with ALN?
- There needs to be more detail relating to the 0-3 and 16-25 year age groups – for example who is responsible in pre-school settings?
- With such a broad definition and with no ‘graduated response’ or thresholds children disadvantaged by deprivation could be further disadvantaged by having to be labelled ALN.

Definition of ALP

- Definition refers to mainstream maintained schools –special schools don’t seem to be included at all.
- Does the reference to naming schools in the IDP relation to special school / provision?
- In relation to children under 3 what does ‘educational’ provision mean? There is a wide range of pre – school settings so this needs to be defined further.
- In terms of ALP for LAC pupils placed out of county, who has responsibility for this? Will the ‘belonging regulations’ be reformed alongside this Bill?

- There will need to be significant development around provision for pupils 16-25 – currently health & social care are only planning up to 18 – how will this fit?
- Further definition is required in relation to the child's interest requiring ALP being made at a school

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/> x	Neither agree nor disagree	<input type="checkbox"/>
-------	--------------------------	----------	---------------------------------------	----------------------------	--------------------------

Supporting comments

- In principle it was agreed that the IDP is an improvement on the current system but it is not really a unified plan – the EHC Plan in England seems more robust and appears to tie health and social care in more effectively. A question was raised whether an education Bill can impose duties on health – the answer seems to be 'no'.
- The workload associated with the production of IDPs at all levels of ALN was a concern – there are also significant training implications.
- What does an IDP look like? Will there be templates? The quality of IDPs needs to be monitored otherwise they will become as ineffectual as the current IEPs.
- The Bill doesn't mention who would provide advice in contributing to the IDP, especially in making the decision over whether ALP is required.
- The Bill does not provide guidance on the assessment of need and who contributes to the preparation, maintenance and review of IDPs.
- There is no definition or guidance on when it would be reasonable for schools/parents/children to request the LA to take responsibility for the IDP.
- There is no guidance on at what point an IDP should be handed back to the school as the child's needs become less complex.
- There is no mention of an EP role
- There is also no guidance on how the LA should maintain an IDP in the context of increased delegated funding, or indeed, securing ALP for young people moving into FEIs.
- Special Schools have the most complex and vulnerable pupils so will by default need to have the most comprehensive IDPs – how these are going to be

managed is not referred to in the draft Bill.

- It was felt that there needed to be an increased focus on ‘outcomes’ not ‘input’ and what can be achieved (‘actual’ outcomes not ‘desired’ outcomes)
- The practical and financial impact of extending the age group to 25 needs to be considered.
- The inclusion of Person Centred Practice and the increased participation of children and young people was welcomed and acknowledged to be a positive aspect of the reform.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
-------	--------------------------	----------	--------------------------	----------------------------	-------------------------------------

Supporting comments

- It is encouraging that the draft Bill (and draft Code) supports inclusion and that there is an expectation of high quality teaching for all.
- IDP need to be outcome focussed but there needs to be a way that interventions are tracked and monitored so that there is a high level of quality assurance around provision for pupils with ALN.
- It was felt that high aspiration and improved outcomes would mean nothing if the current way of publishing data continues. Special School outcome data is not even published which may led to a question about the culture of inclusion and high aspirations for all
- It is important to promote appropriate and relevant high aspirations and improved outcomes that are realistic and achievable (not just academic outcomes in relation to literacy and numeracy, but in terms of improved participation and contribution to society).
- There does not appear to be any link with / role for school improvement challenge advisors in relation to the above.
- The recognition of the need for a designated ALNCo but there is concern as to how this would be achieved without any additional resourcing. Small schools have no capacity to have one person in this role. There would be an expectation that with increased responsibilities the ALNCo would attract a TLR

- may school are in difficult financial positions and could not afford this. Many existing staff would not wish to undertake such a role.
- It is not clear how the ALNCo role fitted into pre-school provision

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	--------------------------	----------	-------------------------------------	----------------------------	--------------------------

Supporting comments

- The draft Bill and Code needs to be far more explicit on the role health service play and how they will input into the IDP and delivery of provision.
- There is no confidence that under the current systems health & social care colleagues have the capacity to support the proposed reforms.
- If it is intended that there is a DMO per health board there is concern that responsibilities for one individual within that role would be unmanageable.
- There are significant resource implications for all agencies – the implications for health visitors was highlighted as a concern.
- It was concerning that the only reference to Social Care seemed to be in relation to LAC plans and how these could be incorporated in the IDP. The role Social Care teams should be expanded. Should they also have a Designated Officer?
- There is no clarity in the Bill over how the IDP will incorporate, existing Children's Services plans and Health Care plans.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	--------------------------	----------	-------------------------------------	----------------------------	--------------------------

Supporting comments

- We do not agree that the draft Bill provides an appropriate framework as without clear parameters and criteria around the definition of ALN & ALP there is likely to be an increase in disagreements.
- There is the possibility of increased ‘tension’ between schools and LAs if schools consider that despite ‘best endeavours’ they do not have the capacity to manage some pupils with ALN. Without agreed criteria which support a more graduated response to ALN then it would be difficult to have a robust discussion on respective roles & responsibilities
- There is concern, that the Bill may lead to an increase in appeals/disputes, which is contrary to what the Bill is hoping to achieve. It opens up the appeal process pre, during and post IDP preparation, This leads to workforce concerns (demands on time and the capacity, and the opportunity to seek appropriate advocacy services for CYP)
- There will need criteria to ensure consistency and transparency in allocation of ALP to meet ALN and, in so doing, avoid, appeals and disputes.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

- There are still too many gaps in the documentation and language is non specific which may further add to the potential for

interpretation.

- There is significant concern around the notion that this reform is cost neutral. The costs detailed to support governor & LA training are not realistic
- The explanatory memorandum significantly underestimates the cost and time resource implications in working with the extended age range.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

- Resourcing (funding and workforce)
- Detail regarding the transition period
- The role of Special schools and resource bases
- Capacity issues in the context of the financial climate
- Very limited detail and range and availability of specialist support services that are needed to support schools and FE institutions in delivering the graduated response.
- The role of educational psychology.
- Lack of guidance contained within the Draft ALN Bill and Draft Code, in relation to the assessment of ALN that will inform the development of the IDP and ALP.
- Timescales for IDP production for CYP with more severe and complex ALN need to be realistic for both schools and LAs, especially where schools will need to seek external assessment and intervention, from for example an EP or other external specialists, to fully understand CYPs ALN and plan appropriate ALP.
- There needs to be clarity over who is best placed to contribute to the content of an IDP, where specialist advice is required from a multi-agency perspective.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Easy Read



Response form

Helping children and young people who need extra support to learn

Children and young people with additional learning
needs



Please tell us what you think by 18 December 2015

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What this consultation is about



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We want education in Wales to be good for everyone. We are changing what all children learn in school. We have plans for training and supporting teachers.



We are writing a new law to support children and young people with additional learning needs. We will say ALN from now on. We want to know what you think of the new law.



You will need to read **Helping children and young people who need extra support to learn**. This tells you about the new law.

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We will make sure that children and young people tell us what they think of the new law.

There are now some questions we would like you to answer.

About you

Your name

Your organisation (if you are writing this for them)

E-mail

We will put all the replies on the internet. If you do not want us to put your name on the internet please tick this box

Please tick what sort of group you belong to.

- Schools
- Special schools
- Colleges
- Pre-school settings – like nurseries
- Public service group – like a day centre
- Voluntary service group – like People First
- None.

1. What are additional learning needs for people aged 0–25?

In the new law we say what we mean by additional learning needs (ALN). Do you think it is clear that we want to focus on learning needs?

(See pages 7 to 10 in the main document.)

Yes

No

Not sure

Do you think it's a good idea to focus on learning needs instead of other needs like health?

Yes

No

Not sure

Do you think the new law will be good for people aged 0–25 with ALN?

Yes

No

Not sure

Why do you think this?

Because I'll have help until I am 25.

2. A plan for each child and young person

We want the new law to:

- give every child and young person with ALN an individual development plan (IDP). This is instead of different plans for different ages and different types of ALN, for example a Statement, an Individual Education Plan or a Learning and Skills Plan
- offer all children and young people with ALN the help they need
- support all additional learning needs.

Do you think our plans on how to:

- get ready for
- write
- do
- check

the new individual development plan are good?

Yes

No

Not sure

Will having one individual development plan be better than having different plans for different types of ALN?

(See pages 11 to 15 of the main document.)

Yes

No

Not sure

Why do you think this?

It will be easier to understand.

3. Aiming high for children and young people with additional learning needs

We want to make sure all staff think about what children and young people with ALN must have. We want their needs thought about in all planning for education. Will the new law do this?

(See pages 16 to 17 of the main document.)

Yes

No

Not sure

Why do you think this?

Everybody will be asked.

We want children, young people and their families to be involved in decisions about how to support their needs. Will the new law help children and young people have a say in the support they get?

Yes

No

Not sure

Why do you think this?

As above.

4. Everyone working together

We want services to work together to support children and young people with ALN. Will the new law help everyone work together?

(See pages 18 to 19 of the main document.)

Yes

No

Not sure

Why do you think this?

5. When people do not agree about the plan

We want to try to stop disagreements about the child's or young person's plan and help sort things out quickly when there is a disagreement. Will the new law do this?

(See pages 20 to 25 of the main document.)

Yes

No

Not sure

Why do you think this?

Everybody will be asked.

Do you think the way to appeal is clear?

Yes

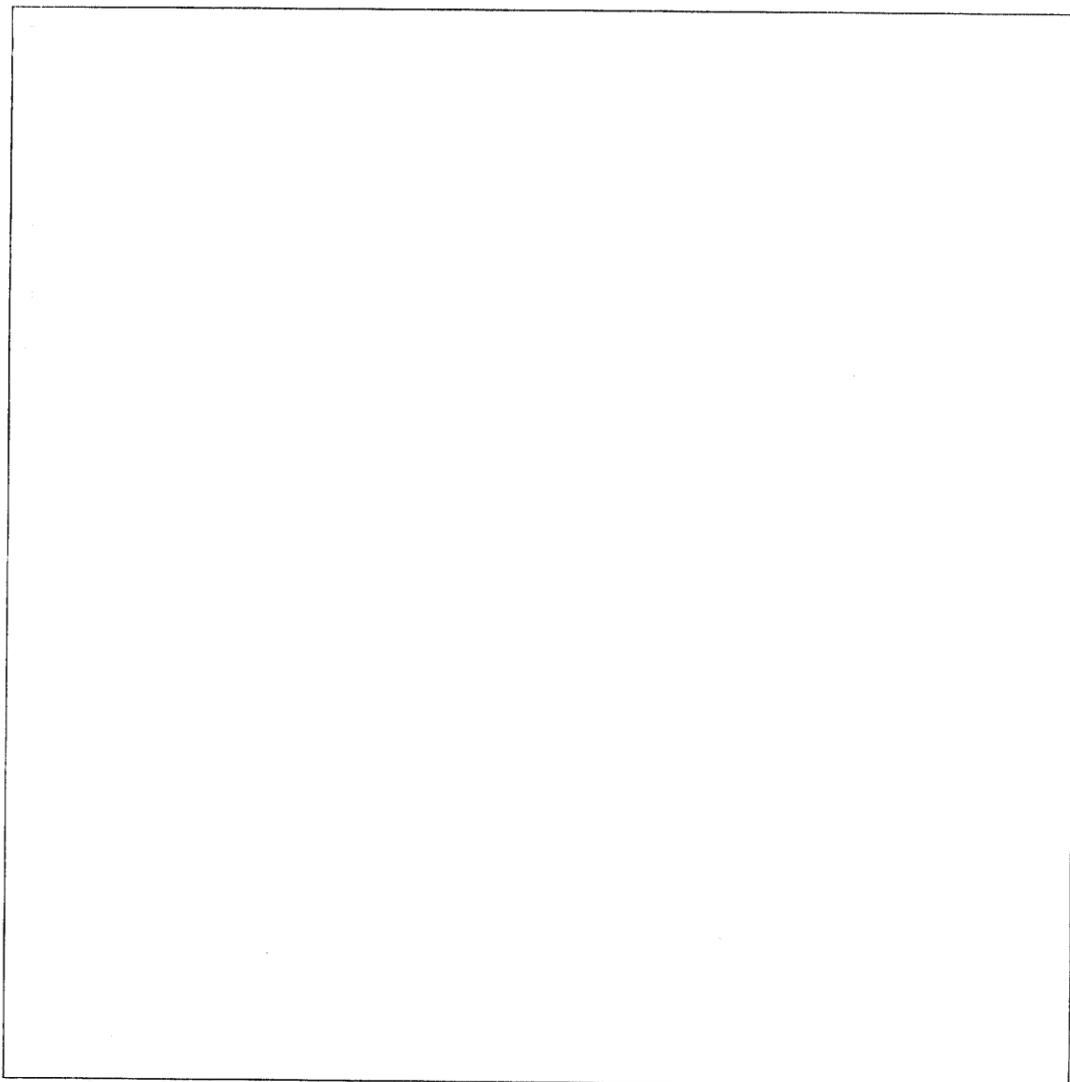
No

Not sure

Why do you think this?

6. Anything else?

Is there anything else you want to say about the new law?

A large, empty rectangular box with a thin black border, designed for respondents to write their answers to the question "Is there anything else you want to say about the new law?"

Easy Read



Llywodraeth Cymru
Welsh Government

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Yes

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Not sure

Do you think it's a good idea to focus on learning needs instead of other needs like health?

Yes

No

Not sure

Do you think the new law will be good for people aged 0–25 with ALN?

Yes

No

Not sure

Why do you think this?

The title ALN sounds better than special
Learning needs.

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(See pages 16 to 17 of the main document.)

Yes

No

Not sure

Why do you think this?

everybody close to your would be asked.
me

We want children, young people and their families to be involved in decisions about how to support their needs. Will the new law help children and young people have a say in the support they get?

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Why do you think this?

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Why do you think this?

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Do you think the way to appeal is clear?

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No

Not sure

Why do you think this?

6. Anything else?

Is there anything else you want to say about the new law?

I think it would be good to have someone
working with you up until you are 25.

Easy Read



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- Pre-school settings – like nurseries
- Public service group – like a day centre
- Voluntary service group – like People First
- None.

1. What are additional learning needs for people aged 0–25?

In the new law we say what we mean by additional learning needs (ALN). Do you think it is clear that we want to focus on learning needs?

(See pages 7 to 10 in the main document.)

Yes

No

Not sure

Do you think it's a good idea to focus on learning needs instead of other needs like health?

Yes

No

Not sure

Do you think the new law will be good for people aged 0–25 with ALN?

Yes

No

Not sure

Why do you think this?

It will be easier to understand.

2. A plan for each child and young person

We want the new law to:

- give every child and young person with ALN an individual development plan (IDP). This is instead of different plans for different ages and different types of ALN, for example a Statement, an Individual Education Plan or a Learning and Skills Plan
- offer all children and young people with ALN the help they need
- support all additional learning needs.

Do you think our plans on how to:

- get ready for
- write
- do
- check

the new individual development plan are good?

Yes

No

Not sure

Will having one individual development plan be better than having different plans for different types of ALN?

(See pages 11 to 15 of the main document.)

Yes

No

Not sure

Why do you think this?

It will be easier to understand .

3. Aiming high for children and young people with additional learning needs

We want to make sure all staff think about what children and young people with ALN must have. We want their needs thought about in all planning for education. Will the new law do this?

(See pages 16 to 17 of the main document.)

Yes

No

Not sure

Why do you think this?

Everybody close to me will be asked.

We want children, young people and their families to be involved in decisions about how to support their needs. Will the new law help children and young people have a say in the support they get?

Yes

No

Not sure

Why do you think this?

As above.

4. Everyone working together

We want services to work together to support children and young people with ALN. Will the new law help everyone work together?

(See pages 18 to 19 of the main document.)

Yes

No

Not sure

Why do you think this?

5. When people do not agree about the plan

We want to try to stop disagreements about the child's or young person's plan and help sort things out quickly when there is a disagreement. Will the new law do this?

(See pages 20 to 25 of the main document.)

Yes

No

Not sure

Why do you think this?

Because everyone will be asked.

Do you think the way to appeal is clear?

Yes

No

Not sure

Why do you think this?

6. Anything else?

Is there anything else you want to say about the new law?

I think it is good that we have help upto 0-25.

Easy Read



Response form

Helping children and young people who need extra support to learn

Children and young people with additional learning
needs



Please tell us what you think by 18 December 2015

This is an Easy Read response form for the Easy Read explanation of the **Draft Additional Learning Needs and Educational Tribunal (Wales) Bill**.

October 2015

How to use this document



This is an Easy Read version. The words and their meaning are easy to read and understand. You may need help and support to read and understand this document. Ask someone you know to help you.

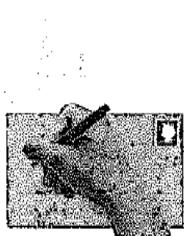


Some words may be difficult to understand. These are in **bold blue writing** and have been explained in a box beneath the word.



Llywodraeth Cymru
Welsh Government

Where the document says 'we', this means Welsh Government.



Please send your answers to:

Additional Learning Needs Reform Branch

Support for Learners Division

Welsh Government

Cathays Park

Cardiff

CF10 3NQ



e-mail: SENReforms@wales.gsi.gov.uk

WG26534

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2. A plan for each child and young person.....	5
3. Aiming high for children and young people with additional learning needs.....	6
4. Everyone working together.....	7
5. When people do not agree about the plan.....	8
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What this consultation is about



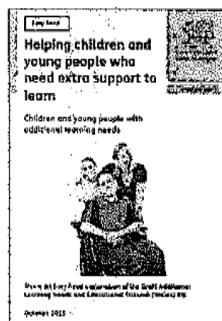
A **consultation** is when you are asked what you think.



We want education in Wales to be good for everyone. We are changing what all children learn in school. We have plans for training and supporting teachers.



We are writing a new law to support children and young people with additional learning needs. We will say ALN from now on. We want to know what you think of the new law.



You will need to read **Helping children and young people who need extra support to learn**. This tells you about the new law.

We are also writing rules for staff to use the new law. This is called a **Code**. We will send these out later this year.



A lot of different people have helped us to write this law. It has taken us a few years. We think it is good but know it can always be made better.

We will make sure that children and young people tell us what they think of the new law.



There are now some questions we would like you to answer.

About you

Your name

Your organisation (if you are writing this for them)

E-mail

We will put all the replies on the internet. If you do not want us to put your name on the internet please tick this box

Please tick what sort of group you belong to.

- Schools
- Special schools
- Colleges
- Pre-school settings – like nurseries
- Public service group – like a day centre
- Voluntary service group – like People First
- None.

1. What are additional learning needs for people aged 0–25?

In the new law we say what we mean by additional learning needs (ALN). Do you think it is clear that we want to focus on learning needs?

(See pages 7 to 10 in the main document.)

Yes

No

Not sure

Do you think it's a good idea to focus on learning needs instead of other needs like health?

Yes

No

Not sure

Do you think the new law will be good for people aged 0–25 with ALN?

Yes

No

Not sure

Why do you think this?

Because it will be up to date

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- get ready for
- write
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the new individual development plan are good?

Yes

No

Not sure

Will having one individual development plan be better than having different plans for different types of ALN?

(See pages 11 to 15 of the main document.)

Yes

No

Not sure

Why do you think this?

It will be easy to understand

3. Aiming high for children and young people with additional learning needs

We want to make sure all staff think about what children and young people with ALN must have. We want their needs thought about in all planning for education. Will the new law do this?

(See pages 16 to 17 of the main document.)

Yes

No

Not sure

Why do you think this?

every body close to me
will be as fed.

We want children, young people and their families to be involved in decisions about how to support their needs. Will the new law help children and young people have a say in the support they get?

Yes

No

Not sure

Why do you think this?

It's a belief

4. Everyone working together

We want services to work together to support children and young people with ALN. Will the new law help everyone work together?

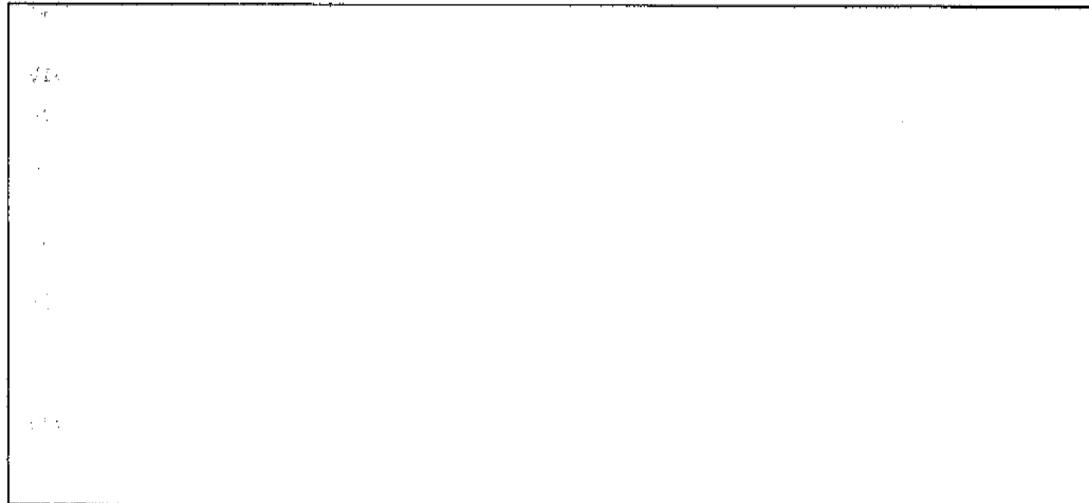
(See pages 18 to 19 of the main document.)

Yes

No

Not sure

Why do you think this?



A large, empty rectangular box with a thin black border, intended for respondents to write their answers to the question "Why do you think this?"

5. When people do not agree about the plan

We want to try to stop disagreements about the child's or young person's plan and help sort things out quickly when there is a disagreement. Will the new law do this?

(See pages 20 to 25 of the main document.)

Yes

No

Not sure

Why do you think this?

Everyone will be asked.

Do you think the way to appeal is clear?

Yes

No

Not sure

Why do you think this?

6. Anything else?

Is there anything else you want to say about the new law?

I think it's good
to have help with it.
25

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name: RACHEL VUGHTHAN SAWC3

Organisation (if applicable): AEP / Vale of Glamorgan
Educational Psychologist

e-mail/telephone number: [REDACTED]

Your address: [REDACTED]

Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SENReforms@wales.gsi.gov.uk

Category of respondent	Schools	<input type="checkbox"/>
	Special schools	<input type="checkbox"/>
	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	X
	Teaching Unions	
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
	Third sector organisations	<input type="checkbox"/>
	Individuals	<input type="checkbox"/>
	Other	<input type="checkbox"/>

Consultation questions

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

Question 1 – The introduction of the term ALN and a 0–25 age range

Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

The term Additional Learning Needs is to be welcomed and the definitions of ALN and ALP are very similar to those definitions in the current Code of Practice and to those in the English SEND Code of Practice. The extension of the age range from 0–25 is also to be welcomed providing the necessary resources are put in place in order to effectively meet the needs of all CYP with ALN.

However the essential role of Educational Psychologists in all complex cases referred to the LA *must be recognised* on the face of the Bill and in the Code of Practice to ensure that children and young people in Wales have the same rights of access to an EP as those in England.

The Code of Practice should also state that schools should consult with an Educational Psychologist *before* any case is referred to a LA. In addition the wider role of the EP in supporting school staff at all levels including FEIs needs to be explicitly recognised in the Code of Practice.

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

A unified planning process is to be welcomed and the requirement that all IDPs are statutory adds to the robustness of the legal framework. However the processes for the preparation, maintenance and review of IDPs are not clearly set out in the Bill.

There needs to be a graduated response to the assessment and identification of ALN. In essence the original code was and is very clear about the processes and components of an effective and comprehensive assessment process based around the concept of a graduated response and increasing specialist involvement. This fundamental principle is not clearly stated in the Bill or in the draft Code of Practice.

As stated in response to question 1, the essential role of Educational Psychologists in all complex cases referred to the LA must be recognised on the face of the Bill and in the Code of Practice to ensure that children and young people in Wales have the same rights of access to an EP as those in England.

Moreover the Code of Practice should state that schools should consult with an Educational Psychologist before any case is referred to a LA. In addition the wider role of the EP in supporting school staff at all levels including FEI needs to be explicitly recognised in the Code of Practice.

Neither the Bill nor the Code of Practice specify the role of the institution or school in maintaining the plan in cases when the IDP is held by the LA. Without a more detailed description of the process it is difficult to see how the IDP can be a working document when held by the LA. There is a lack of clarity in how the LA will be able to secure provision in those cases when it holds the IDP particularly with regard to FEIs

The emphasis on increased participation of children and young people is to be welcomed. It is essential that the voices of children and young people are heard in whichever manner is most appropriate for them and that all the CYP workforce incorporates the culture of listening within their day to day practice. Person centred planning meetings demonstrate good practice and must be resourced appropriately in order to ensure the effective formulation of IDPs.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	x	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

There is a clear focus on promoting the interests of children and young people with the emphasis on person centred planning and the concept that all IDPs should be statutory. However to achieve improved outcomes there is a need for more clarity in the whole process of preparing, maintaining and reviewing IDPs – see responses to questions 1 and 2 above.

The role of the ALNCO will be crucial and he/she must have appropriate qualifications and undertake relevant training and CPD. However there will be a need for the training of the school and FEI workforce to be sufficiently skilled in meeting the needs of CYP who have ALN. The role of the EP will be crucial in providing training and on going support and advice.

In practice EP services will need to be properly resourced in order to meet:

- Statutory roles in complex cases – before referred and once done so – including working with multi-agencies
- Increased training needs as well as ongoing support and advice to ALNCOs, teachers and head teachers in schools and FEIs (NB latter is new responsibility)

The Bill will inevitably and quite rightly raises aspirations and expectations and the implications for the Educational Psychology workforce must include consideration of commissioning more university training places. There is also a need to ensure adequate funding for Local Authorities if the Bill is to succeed in improving outcomes for children.

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	-------------------------------------	----------	--------------------------	----------------------------	--------------------------

Supporting comments

In theory the Bill provides the basis for increased collaboration and planning but it is unclear how the IDP and any Health Care plans will link together. However in practice with ever decreasing resources it will be difficult to achieve significant improvements in the way that agencies work together.

There is a greater degree of clarity with regard to the role and responsibilities of other agencies and providers such as the Health Service in the way IDPs will be written (although there is no duty or statutory requirement for LHBs to be involved in the preparation and maintenance of IDPs for young people in FEIs).

However it will still be difficult for parents and young people to complain if the appropriate provision is not provided by the relevant non LA providers as the Education Tribunal does not have any jurisdiction over non Education organisations such as the NHS. There is therefore still a lack of legal robustness in ensuring that the NHS and other organisations provide for the child's and young person's needs when required to do so.

As stated previously the requirement to fully involve children, young people and their parents in the planning process is to be welcomed. It is essential that the voices of children and young people are heard in whichever manner is most appropriate for them and that all the CYP workforce incorporates the culture of listening within their day to day practice.

Moreover a person centred approach and planning meetings demonstrate good practice and must be resourced appropriately in order to ensure the effective formulation of IDPs.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree

Disagree

Neither agree nor
disagree

Supporting comments

The Bill provides an appropriate framework for disagreement avoidance and resolution but there is an assumption that under the new procedures there are likely to be fewer tribunals as disagreements will be resolved at an earlier stage. However given that all IDPs are statutory there is the potential for a high use of advocacy and disagreement resolution services as parents try to ensure that their child receives the necessary support.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

The Explanatory Memorandum hardly mentions Educational Psychologists. Currently FEIs make their own arrangements regarding EP assessments by commissioning EPs who do not work for the LA and LA EPs rarely visit such institutions. For those young persons with complex needs the LA will hold the IDP and this will impact on – increase - the work of the EP.

Currently EPs have a statutory role in assessing those children who are undergoing statutory assessment. Under the Bill and also the draft Code of Practice there will be no such requirement even when the CYP has complex needs. The lack of a statutory role for EPs means that Welsh children and young people with complex needs will be disadvantaged in comparison to their English counterparts.

The draft Code of Practice in its current form also rarely mentions EPs and when it does the work of the EP is given a low profile which, considering the essential nature of their role in the whole process of the identification, assessment and support of children with ALN, is very disappointing.

There is also an important role for EPs in providing CPD and support for school staff and particularly for ALNCOs and the impact of the new legislation on the EP services has not been given the consideration that is required – see answer to question 7.

ALNET 142

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Consultation response form

Your name:

Organisation (if applicable):

e-mail/telephone number:

Your address:



Responses should be returned by **18 December 2015** to:

Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
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or completed electronically and sent to:

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Category of respondent	Schools	<input checked="" type="checkbox"/>
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	Special Educational Needs Co-ordinators	<input type="checkbox"/>
	Further education sector	<input type="checkbox"/>
	Preschool organisations	<input type="checkbox"/>
	Education professionals	<input type="checkbox"/>
	Teaching Unions	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Work Based Learning organisations	<input type="checkbox"/>
	Local Health Boards	<input type="checkbox"/>
	Health professionals	<input type="checkbox"/>
	Other public sector organisations	<input type="checkbox"/>
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Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	-------------------------------------	----------	--------------------------	----------------------------	--------------------------

Supporting comments

But HAVE CONCERN S BE WORKLOAD FOR IDPS -TEACHERS + ALNCOS WITHOUT FUNDING FOR NON-CONTACT (EVEN IF SMT - ONLY HT + DHT CURRENTLY HAVE 'BLT ENTITLEMENT.')
NB SOME SCHOOLS DO VOLUNTARILY GIVE NON-CONTACT.
AN ADDITIONAL PERSON FUNDED FOR THIS WOULD BE HELPFUL.

Question 3 – High aspirations and improved outcomes

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	--------------------------	----------	-------------------------------------	----------------------------	--------------------------

Supporting comments

- NOT UNLESS SCHOOL PROCEDURES RIGOROUSLY MODERATE + FOLLOW UP EVALUATION WITH IMPACT.
- (SOME PARENTS MAY NEED SUPPORT TO CONTRIBUTE TOO).
- INCREASED NUMBER OF MAINSTREAM SEN DUE TO ↑ PREMATURE BIRTH MAKES SUPPORT DIFFICULT WITH LIMITED FUNDING.
- REDUCED BUDGETS FOR SUPPORT INITIATIVES

Question 4 – Increased collaboration

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	--------------------------	----------	-------------------------------------	----------------------------	--------------------------

Supporting comments

NOT NECESSARILY, UNLESS GUIDELINES MOST WORK WELL WHERE SUFFICIENT FUNDING IN PLACE TO PROVIDE AGENCY EARLY INTERVENTION.
THIS NEEDS NON CONTACT FOR STAFF TO CHASE WHICH HAS COST IMPLICATIONS.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
-------	-------------------------------------	----------	--------------------------	----------------------------	--------------------------

Supporting comments

I WELCOME OPPORTUNITY FOR LINK TO SCHOOL
LEA COMPLAINTS POLICY (SCHOOL LEVEL RESOLUTION
FOR FEWER ISSUES THAN TRIBUNAL)

WORRIED ABOUT INCREASED WORKLOAD FOR
HEADTEACHERS & ALNCO's.

NOT ALL SCHOOLS HAVE A SMT POSITION
FOR ALNCO - COST IMPLICATIONS IN SMALL
SCHOOLS - POSSIBLE COLLABORATIVE WORKING
& JOIN ALNCO BETWEEN SCHOOLS.

Question 6 – Supporting documents

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

~~STANDING IMPLICATIONS *~~

SEE PREVIOUS QUESTIONS

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Meri Huws
Comisiynydd y Gymraeg
Welsh Language Commissioner

01/07



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

SENReforms@wales.gsi.gov.uk
Y Gangen Diwygio Anghenion Dysgu Ychwanegol
Yr Is-adran Cymorth i Ddysgwyr
Yr Adran Addysg a Sgiliau
Llywodraeth Cymru
Parc Cathays, Caerdydd
CF10 3NQ

3/11/2015

Annwyl Swyddog,



Ymgynghoriad ar y Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Diolch i chi am y cyfle hwn i gyflwyno ein sylwadau ar y Bil drafft uchod. Gellir crynhoi sylwadau Comisiynydd y Gymraeg a'r materion posibl y gallai Llywodraeth Cymru roi sylw iddynt wrth fynd ati i ddatblygu'r Bil drafft ymhellach fel a ganlyn:

- Dylai'r Bil drafft fanteisio ar unrhyw gyfleoedd posibl i osgoi risg o wahaniaethu yn erbyn siaradwyr Cymraeg sydd ag anghenion dysgu ychwanegol o ganlyniad i ddifffyg darpariaeth gwasanaethau Cymraeg ar eu cyfer. Mae'r Bil drafft yn anelu at wella'r ddarpariaeth gwasanaethau ADY yn gyffredinol, ond nid yw'n cynnwys unrhyw ddarpariaeth benodol ar gyfer gwella gwasanaethau Cymraeg. Nid yw'n eglur sut fydd y Bil drafft yn cyfrannu at gyflawni gofynion ieithyddol y Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn a Mesur Hawliau Plant a Phobl Ifanc (Cymru) 2011.
- Er gwaethaf y gydnabyddiaeth yn Strategaeth Addysg Cyfrwng Cymraeg Llywodraeth Cymru a'r strategaeth 'Iaith Fyw: Iaith Byw' bod angen gwella gwasanaethau Cymraeg, nid yw'r Bil drafft yn cynnwys unrhyw ddarpariaeth ar gyfer gwella gwasanaethau Cymraeg yn benodol. Mae darpariaethau yn y Bil drafft ar gyfer gwella gwasanaethau yn gyffredinol ar gyfer unigolion sydd

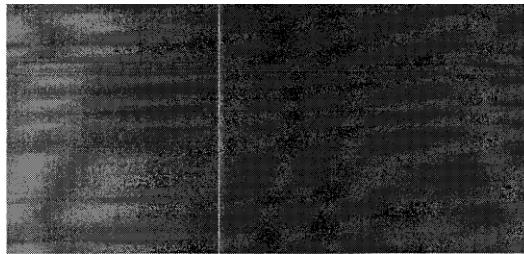
Comisiynydd y Gymraeg
Siambrau'r Farchnad
5-7 Heol Eglwys Fair
Caerdydd CF10 1AT

0845 6033 221
post@comisiynyddygymraeg.org
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg
comisiynyddygymraeg.org

Welsh Language Commissioner
Market Chambers
5-7 St Mary Street
Cardiff CF10 1AT

0845 6033 221
post@welshlanguagecommissioner.org
Correspondence welcomed in Welsh and English
welshlanguagecommissioner.org





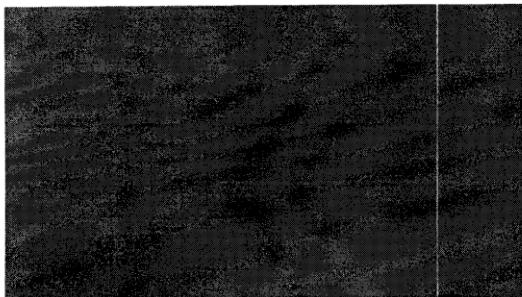
ag anghenion dysgu ychwanegol, ond nid oes unrhyw fesurau penodol wedi eu cynnwys er mwyn gwella'r ddarpariaeth Gymraeg yn benodol. Nid yw'n eglur felly sut fydd y Bil drafft yn cyfrannu at gyflawni amcanion y strategaethau hyn.

- Awgrymir yn yr asesiad effaith iaith a gyhoeddwyd gyda'r Bil drafft bod y safonau iaith a gyflwynwyd dan Fesur y Gymraeg (Cymru) 2011 yn gosod dyletswydd ar sefydliadau perthnasol i ddarparu gwasanaethau ADY yn Gymraeg. Nid yw'r safonau hynny yn berthnasol i ysgolion. Mae angen eglurder yngylch y dyletswyddau statudol fydd ar ddarparwyr ADY i ddarparu yn Gymraeg. Os cyfyd unrhyw fylchau yn y dyletswyddau ar sefydliadau perthnasol, dylai'r Bil drafft fynd i'r afael â hynny.
- Gan ystyried geiriad cymal 4.1 o Gynllun Iaith Gymraeg Llywodraeth Cymru, a'r frawddeg olaf yn benodol, gellir ond casglu bod Llywodraeth Cymru o'r farn bod y ddarpariaeth gwasanaethau ADY bresennol o'r un safon yn y Gymraeg ac yn Saesneg ac felly nad oes angen gwneud darpariaethau penodol yn y Bil drafft ar gyfer gwella gwasanaethau Gymraeg. Gwerthfawrogwn dderbyn y dystiolaeth sydd gan Llywodraeth Cymru i gefnogi'r canfyddiad hwn.
- Arwyddocaol yw'r ffaith nad yw'r Cynlluniau Strategol y Gymraeg mewn Addysg yn cael eu cynnwys yn y rhestr o'r 'gofynion statudol' eraill sy'n berthnasol i'r sector hwn sydd wedi eu cyhoeddi yn y Cod Ymarfer newydd sy'n cyd-fynd â'r Bil drafft hwn.
- Dylid sicrhau bod y wybodaeth ac unrhyw gyngor ar gael yn y Gymraeg i'r grwpiau hyn gan gynnwys unrhyw daflenni, gwefannau, canolfannau cymorth, cyfryngau cymdeithasol ayyb. Dylid hefyd sicrhau fod anghenion ieithyddol yn ofyniad clir yn unrhyw agwedd o'r gwaith hwn a roddir allan i dendr. Yn yr un modd, dylid sicrhau fod digon o gynnodwyr ar gael sy'n hyfedor yn y Gymraeg sydd yn gallu ymddyri ag anghyd fodau, a bod y Tribiwnlys â'r gallu i gynnig gwasanaethi cyfrwng Gymraeg.
- O ystyried pa mor greiddiol yw cyfrwng iaith unrhyw ddarpariaeth ddysgu ychwanegol gall ddysgwyr fod ei angen, mae'n anodd iawn deall pam nad yw nodi cyfrwng iaith addysg dysgwr ymhlið gofynion mandadol y Cynllun Datblygu Unigol sy'n cael eu nodi ym rhennod 10 y Cod Ymarfer newydd.

Cyd-destun

Prif nod y Comisiynydd yw hybu a hwyluso defnyddio'r Gymraeg. Gwneir hyn drwy ddwyn sylw at y ffâith fod statws swyddogol i'r Gymraeg yng Nghymru a thrwy osod safonau ar sefydliadau. Bydd hyn, yn ei dro yn arwain at sefydlu hawlau i siaradwyr Cymraeg.





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Mae dwy egwyddor yn sail i waith y Comisiynydd:

- Ni ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg yng Nghymru;
- Dylai personau yng Nghymru allu byw eu bywydau drwy gyfrwng y Gymraeg os dynt yn dymuno gwneud hynny.

Mae pwerau newydd i osod a gorfodi safonau ar sefydliadau yn dod i rym trwy is-de-dddfwriaeth ar hyn o bryd. Ar yr un pryd mae'r Comisiynydd yn parhau i arolygu cynlluniau iaith statudol trwy bwerau y mae wedi eu hetifeddu o dan Ddeddf yr Iaith Gymraeg 1993.

Crëwyd swydd y Comisiynydd gan Fesur y Gymraeg (Cymru) 2011. Caiff y Comisiynydd ymchwilio i fethiant i weithredu cynllun iaith; ymyrraeth â'r rhyddid i ddefnyddio'r Gymraeg yng Nghymru ac, yn y dyfodol, i gwynion yngylch methiant sefydliadau i gydymffurfio â safonau.

Un o amcanion strategol y Comisiynydd yw dylanwadu ar yr ystyriaeth a roddir i'r Gymraeg mewn datblygiadau polisi. Darperir sylwadau ar bolisi yn unol â'r cylch gorchwyl hwn gan weithredu fel eiriolwr annibynnol ar ran siaradwyr Cymraeg yng Nghymru y gallai'r Bil hwn effeithio arnynt. Mae'r ymagwedd hon yn cael ei harddel er mwyn osgoi unrhyw gyfaddawd posibl ar swyddogaethau'r Comisiynydd ym maes rheoleiddio, a phe byddai'r Comisiynydd yn dymuno adolygu'n ffurfiol berfformiad cyrff unigol neu Lywodraeth Cymru yn unol â darpariaethau'r Mesur.

Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn a Mesur Hawliau Plant a Phobl Ifanc (Cymru) 2011

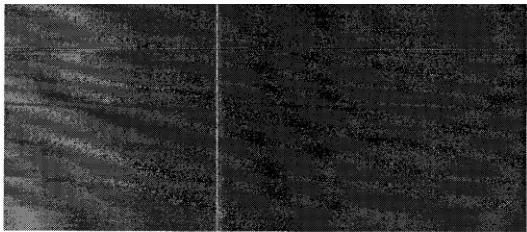
Mae Mesur Hawliau Plant a Phobl Ifanc (Cymru) 2011 yn ymgorffori holl hawliau Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn (CCUHP) i gyfraith ddomestig Cymru. Mae nifer o erthyglau CCUHP yn cyfeirio'n benodol at iaith a mynogi barn.

Mae Erthygl 2 yn gwarchod y plentyn rhag dioddef gwahaniaethu ar sail iaith ac yn rhoi dyletswydd ar bartiwn gwladwriaethau i amddiffyn y plentyn rhag pob ffurf ar gamwahaniaethu. Mae Erthyglau 12 a 13 yn rhoi'r hawl i'r plentyn leisio barn yn ddirwystr, gydag Erthygl 30 yn rhoi'r hawl i'r plentyn sy'n perthyn i leiafrif ddefnyddio ei iaith ei hun mewn cymuned ag aelodau eraill o'i grŵp.

Dylai'r Bil drafft fanteisio ar unrhyw gyfleoedd posib i osgoi risg o wananiaethu yn erbyn siaradwyr Cymraeg sydd ag anghenion dysgu ychwanegol o ganlyniad i ddifffyg darpariaeth gwasanaethau Cymraeg ar eu cyfer. Mae'r Bil drafft yn anelu at wella'r ddarpariaeth gwasanaethau ADY yn gyffredinol, ond nid yw'n cynnwys unrhyw ddarpariaeth benodol ar gyfer gwella gwasanaethau Cymraeg. Nid yw'n eglur sut fydd y Bil drafft yn cyfrannu at gyflawni gofynion ieithyddol y CCUHP a Mesur Hawliau Plant a Phobl Ifanc (Cymru) 2011.

Amcanion Polisi Llywodraeth Cymru mewn perthynas â'r Gymraeg





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Mae Nod Strategol 1 Strategaeth Addysg Cyfrwng Cymraeg Llywodraeth Cymru yn gofyn am wella'r broses o gynllunio darpariaeth cyfrwng Cymraeg yn y cyfnodau addysg cyn statudol a statudol ar gyfer dysgwyr ag ADY. Noda'r Strategaeth bod y Llywodraeth yn (AS1.5):

'Disgwyl gwell cynllunio ar gyfer darpariaeth a gwasanaethau addysg cyfrwng Cymraeg i ddysgwyr ag anghenion dysgu ychwanegol (ADY) fel rhan annotad o ddarpariaeth addysg yn genedlaethol, yn rhanbarthol ac yn lleol'.

Yn ei strategaeth ar gyfer hybu a hwyluso'r defnydd o'r Gymraeg ym mywyd bob dydd, 'Iaith fyw: Iaith byw', mae Llywodraeth Cymru yn amlinellu'r nodau canlynol:

'cynyddu'r ddarpariaeth o weithgareddau cyfrwng Cymraeg ar gyfer plant a phobl ifanc a chynyddu eu hymwybyddiaeth o werth yr iaith; cynyddu a gwella gwasanaethau Cymraeg i ddinasyyddion'.

Er gwæthaf y gydnabyddiaeth yn Strategaeth Addysg Cyfrwng Cymraeg Llywodraeth Cymru a'r strategaeth 'Iaith Fyw: Iaith Byw' bod angen gwella gwasanaethau Cymraeg, nid yw'r Bil drafft yn cynnwys unrhyw ddarpariaeth ar gyfer gwella gwasanaethau Cymraeg yn benodol. Mae darpariaethau yn y Bil drafft ar gyfer gwella gwasanaethau yn gyffredinol ar gyfer unigolion sydd ag anghenion dysgu ychwanegol, ond nid oes unrhyw fesurau penodol wedi eu cynnwys er mwyn gwella'r ddarpariaeth Gymraeg yn benodol. Nid yw'n eglur felly sut fydd y Bil drafft yn cyfrannu at gyflawni amcanion y strategaethau hyn.

Pwysigrwydd y Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) i ddysgwyr cyfrwng Cymraeg

Gall nifer o blant a phobl ifanc sydd ag anghenion dysgu ychwanegol fod yn bobl bregus, ac mae sicrhau fod pobl bregus yn medru cael mynediad at wasanaethau yn yr iaith y maent fwyaf cyfforddus yn ei defnyddio yn rhan anhepgor o ddarparu gwasanaeth da a chynllunio gweithlu effeithiol. Mae angen i'r sefydliadau perthnasol gydnabod mai ond yn y Gymraeg y gall rhai pobl fynegi eu hanghenion yn effeithiol, a bod gan wasanaethau dyletswydd i gwrdd â'r anghenion hynny.

Awgrymir yn yr asesiad effaith iaith a gyhoeddwyd gyda'r Bil drafft bod y safonau iaith a gyflwynwyd dan Fesur y Gymraeg (Cymru) 2011 yn gosod dyletswydd ar sefydliadau perthnasol i ddarparu gwasanaethau ADY yn Gymraeg. Nid yw'r safonau hynny yn berthnasol i ysgolion. Mae angen eglurder ynghyrch y dyletswyddau statudol fydd ar ddarparwyr ADY i ddarparu yn Gymraeg. Os cyfyd unrhyw fylchau yn y dyletswyddau ar sefydliadau perthnasol, dylai'r Bil drafft fynd i'r afael â hynny.

Gofynion Deddf Llywodraeth Cymru 2006 a Chynllun Iaith Gymraeg Llywodraeth Cymru





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Er mwyn cydymffurfio ag ymrwymiadau cyffredinol Adran 78 Deddf Llywodraeth Cymru 2006, fel y'i diwygiwyd, a gofynnion ei Chynllun Iaith Gymraeg, dylai Llywodraeth Cymru dalu sylw arbennig i bob cyfle i wella darpariaeth cyfrwng Cymraeg wrth lunio deddfwriaeth.

'Gall cyflwyno polisiau, deddfwriaeth, mentrau, gweithdrefnau neu wasanaethau newydd fod yn gyfle i hybu a hwyluso defnyddio'r Gymraeg....Byddwn yn manteisio i'r eithaf ar y cyfleoedd hyn i wella lefel y gwasanaeth i siaradwyr Cymraeg, yn enwedig os nad yw'r safon bresennol yn bodloni'r egwyddor y dylid trin y Gymraeg a'r Saesneg yn gyfartal.'
(Adran 4.1 Cynllun Iaith Gymraeg Llywodraeth Cymru)

Ceir y sylw canlynol ar dudalen 9 o'r ddogfen 'Asesiad Effaith y Bil ar y Gymraeg':

'Bydd y Bil drafft hwn yn sicrhau y cynllunnir yn well ar gyfer anghenion dysgwyr ag ADY, gan gynnwys y rheini sydd mewn addysg cyfrwng Cymraeg, ac y bodloni eu hanghenion yn well, a hefyd bod darpariaeth i fodloni ystod ehangach o anghenion yn cael ei diogelu'n well.'

Serch hynny, nid oes cyfeiriadau penodol at anghenion dysgwyr mewn addysg cyfrwng Cymraeg i'w canfod yn y Bil drafft.

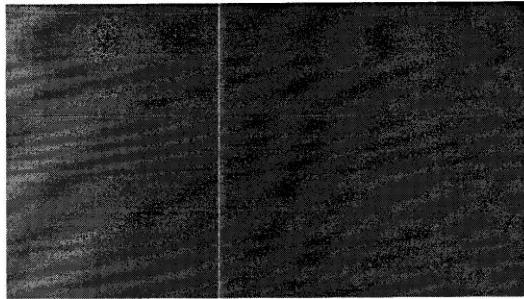
Bwriedir y bydd darpariaethau'r Bil drafft, o'u gweithredu, yn gwella'r ddarpariaeth o wasanaethau ADY ar gyfer plant a phobl ifanc yng Nghymru, gan gynnwys y rheini sy'n siarad Cymraeg. Ond ni cheir unrhyw ddarpariaeth benodol yn y Bil drafft ar gyfer siaradwyr Cymraeg sydd ag ADY.

Gan ystyried geiriad cymal 4.1 o Gynllun Iaith Gymraeg Llywodraeth Cymru, a'r frawddeg olaf yn benodol, gellir ond casglu bod Llywodraeth Cymru o'r farn bod y ddarpariaeth gwasanaethau ADY bresennol o'r un safon yn y Gymraeg ac yn Saesneg ac felly nad oes angen gwneud darpariaethau penodol yn y Bil drafft ar gyfer gwella gwasanaethau Cymraeg. Gwerthfawrogynt dderbyn y dystiolaeth sydd gan Llywodraeth Cymru i gefnogi'r canfyddiad hwn.

Sylwadau Cyffredinol

Mae'r Asesiad Effaith a gyhoeddwyd ar y cyd â'r Bil drafft yn rhoi'r pwyslais i gyd ar y gofynnion sydd ar Awdurdodau Lleol dan Ddeddf Safonau a Threfniadaeth Ysgolion (Cymru) 2013 er mwyn gwella'r ddarpariaeth gwasanaethau ADY yn Gymraeg. Dan y Ddeddf honno mae'n ofynnol i Awdurdodau baratoi Cynlluniau Strategol y Gymraeg mewn Addysg (CSGA), ac wrth lunio eu cynlluniau, mae Rheoliadau Cynlluniau Strategol Cymraeg mewn Addysg ac Asesu'r Galw am Addysg Cyfrwng Cymraeg (2013) yn ei gwneud hi'n ofynnol i bob Awdurdod gynnwys 'datganiad yn nodi [ei] strategaeth o ran sut y bydd yn gwella addysg cyfrwng Cymraeg i ddisgyblion y mae angen cymorth dysgu ychwanegol amyt sy'n deillio o unrhyw anhawster y mae y disgylb yn ei gael wrth ddysgu mewn perthynas â disgyblion eraill sydd o'r un oedran nad ydynt yn cael unrhyw





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anhawster wrth ddysgu.' Ymhellach i hynny, mae Gweinidogion Cymru wedi anfon canllawiau at Awdurdodau Lleol yn ei gwneud hi'n ofynnol iddynt ganolbwytio ar:

- archwiliadau rheolaidd o ddarpariaeth ADY cyfrwng Cymraeg
- y fetholedeg ar gyfer asesu'r galw am cidarpariaeth ADY cyfrwng Cymraeg
- trefniadau ar gyfer cydgyrsylltu â rhieni fel rhan o'r trefniadau asesu anghenion
- cynlluniau ar gyfer datblygu darpariaeth ADY cyfrwng Cymraeg yn well drwy gydweithredu ag awdurdodau lleol eraill / ar lefel consortiw

Mewn perthynas â'r pwyntiau bwled uchod, mae'r Asesiad Effaith yn nodi ymhellach (tudalen 10), '*Ile bydd yr archwiliadau a/neu'r asesiadau o'r galw yn dangos bylchau, mae disgwyl i awdurdodau lleol ddisgrifio'r camau y mænt yn eu cynnig er mwyn eu pontio.*'

Mae'r prawddeg uchod yn tanlinellu pwysigrwydd casglu tystiolaeth nid yn unig am y galw gan ddysgwyr am wasanaethau cyfrwng Cymraeg, ond hefyd am sgiliau iaith Gymraeg staff fydd yn cyflenwi'r holl ystod o wasanaethau dan adain anghenion dysgu ychwanegol. Rwyf o'r farn bod cofrestru sgiliau darparwyr yn un mor bwysig wrth adnabod ble mae'r bylchau yn y gwasanaeth. Rwyf yn awyddus i wybod pa dystiolaeth sydd gan Lywodraeth Cymru am sgiliau iaith darparwyr ar hyn o bryd.

Ymddengos, o'r gosodiadau uchod, y bydd yr holl gyfrifoldeb am ddarparu gwasanaethau ADY yn perthyn i'r Cynlluniau Strategol y Gymraeg mewn Addysg (CSGA) ac nid i'r Bil newydd hwn. Mae sawl risg ymhlyg yn hynny:

1. Nid yw'r ymrwymiadau yn y CSGA yn ddigon penodol nac yn fesuradwy. Enghraift amlwg o hynny yw amwysedd yr ymrwymiad ym mhob CSGA i '[d]datblygu darpariaeth ADY cyfrwng Cymraeg yn well'. Ni ddiffinir yr hyn a olygir wrth 'yn well'.
2. Mewn achosion diweddar lle fo rhai awdurdodau lleol wedi methu cyflawni gofynion eu CSGA, , er enghraifft prinder lleoedd cynradd cyfrwng Cymraeg yn ardal Wrecsam a bwriad Cyngor Sir Ddinbych i gau ysgol cyfrwng Cymraeg Categori 1 a sefydlu ysgol ddwyieithog Categori 2 yn ei lle, ni wnaeth y Gweinidog Addysg a Sgiliau ymyrryd i eithaf ei bwerau er mwyr sicrhau cyflawniad y CSGA. Yn sgil hynny, nid yw'n eglur pa mor barod fyddair Addysg Sgiliau i ddefnyddio'i bwerau a Ddeddf Safonau a Threfniadaeth Ysgolion (Cymru) 2013pe na byddai modd i ddysgrwr ag anghenion dysgu ychwanegol dderbyn gwasanaethau drwy gyfrwng y Gymraeg. Coda hynny gwestiynau yngylch priodoldeb cynllunio'r ddarpariaeth gwasanaethau ADY cyfrwng Cymraeg drwy ddarpariaethau'r ddeddf honno yn hytrach nag o fewn y Bil drafft hwn.

Arwyddocaol yw'r ffaith nad yw'r Cynlluniau Strategol y Gymraeg mewn Addysg yn cael eu cynnwys yn y rhestr o'r 'gofynion statudol' eraill sy'n berthnasol i'r sector hwn sydd wedi eu cyhoeddi yn y Cod Ymarfer newydd sy'n cyd-fynd â'r Bil drafft hwn.

Sylwadau penodol





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Mae'r Bil drafft yn ei gwneud hi'n ofynnol bod Awdurdodau Lleol yn sefydlu trefniadau ar gyfer rhoi gwybodaeth a chyngor i blant, pobl ifanc ac eraill am ADY a'r system newydd. Mae'r Bil drafft hefyd yn ei gwneud hi'n ofynnol i Awdurdodau Lleol gynnig gwasanaethau eiriolaeth annibynnol i ddysgwyr os ydynt yn ystyried gwneud apêl i'r Tribiwnlys Addysg.

Dylid sicrhau bod y wybodaeth ac unrhyw gyngor ar gael yn y Gymraeg i'r grwpiau hyn oan o vinnwv unrhvw daflenni, dwefannau, canolfannau cymorth, cvfrnau.

Meri Huws
Comisiynydd y Gymraeg
Welsh Language Commissioner

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Gymraeg
Welsh Language
Commissioner

SENReforms@wales.gsi.gov.uk
Additional Learning Needs Reform Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park, Cardiff
CF10 3NQ

21/10/2015

The Draft Additional Learning Needs and Educational Tribunal (Wales) Bill

Thank you for this opportunity to submit our comments on the above draft Bill. The Welsh Language Commissioner's comments, and the issues which the Welsh Government could possibly address as it embarks upon further developing the draft Bill, may be summarised as follows:

- The draft Bill should take advantage of any possible opportunities to avoid the risk of discriminating against Welsh speakers who have additional learning needs as a result of the lack of provision of Welsh language services for them. The draft Bill aims to improve the provision of ALN services in general, but it does not include any specific provision for improving Welsh language services. It is unclear how the draft Bill will contribute towards carrying out the linguistic requirements of UNCRC and the Children and Young Persons (Wales) Measure 2011.
- Despite the acknowledgement in the Welsh Government's Welsh Medium Education Strategy and the 'Iaith Fyw: faith Byw' strategy of the need to improve Welsh language services, the draft Bill does not include any provision for improving Welsh language services specifically. There are provisions in the Bill for improving services in general for individuals who have additional learning needs, but no specific measures have been included to improve the Welsh language provision

Comisiynydd y Gymraeg
Siambrâu'r Farchnad
5–7 Heol Eglwys Fair
Caerdydd CF10 1AT

0845 6033 221
post@comisiynyddygymraeg.org
Craesewir gohebiaeth yn y Gymraeg a'r Saesneg

comisiynyddygymraeg.org

Welsh Language Commissioner
Market Chambers
5–7 St Mary Street
Cardiff CF10 1AT

0845 6033 221
post@welshlanguagecommissioner.org
Correspondence welcomed in Welsh and English

welshlanguagecommissioner.org



specifically. Therefore it is unclear how the draft Bill will contribute towards achieving the aims of these strategies.

- It is suggested in the linguistic impact assessment published with the draft Bill that the language standards introduced under the Welsh Language (Wales) Measure 2011 impose a duty upon relevant organizations to provide ALN services in Welsh. Those standards are not relevant to schools. Clarity is required regarding the statutory duties that will be upon ALN providers to provide in Welsh. Should any gaps arise in the duties upon relevant organizations, the draft Bill should tackle this.
- Considering the wording of clause 4.1 of the Welsh Government's Welsh Language Scheme, and the last sentence specifically, it can only be concluded that the Welsh Government is of the opinion that the current provision of ALN services is of the same standard in Welsh as in English and thus that there is no need to make specific provisions in the draft Bill for improving Welsh language services. We would appreciate receipt of the evidence the Welsh Government has to support this finding.
- It is significant that the Welsh in Education Strategic Plans are not included in the list of other 'statutory requirements' that are relevant to this sector which have been published in the new Code of Practice which accompanies this draft Bill.
- It should be ensured that information and any advice is available in Welsh to these groups, including any leaflets, websites, support centres, social media etc. It should also be ensured that linguistic needs are a clear requirement in any aspect of this work that is put out to tender. Similarly, it should be ensured that an adequate number of mediators are available who are proficient in the Welsh language who can deal with disputes, and that the Tribunal has the ability to offer service through the medium of Welsh.
- Considering how integral is the language medium of any additional learning provision learners may need, it is very difficult to understand why noting the language medium of a learner's education is not among the mandatory requirements of the Individual Development Plan that are noted in chapter 10 of the new Code of Practice.

Context

The principal aim of the Commissioner is to promote and facilitate the use of the Welsh language. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.



Two principles underpin the Commissioner's work:

- In Wales, the Welsh language should be treated no less favourably than the English language;
- Persons in Wales should be able to live their lives through the medium of Welsh if they wish to do so.

New powers to set and enforce standards on organizations are currently coming into force via secondary legislation. At the same time, the Commissioner continues to inspect statutory language schemes through the powers inherited under the Welsh Language Act 1993.

The post of Commissioner was created by the Welsh Language (Wales) Measure 2011. The Commissioner may investigate failure to implement a language scheme; interference with the freedom to use Welsh in Wales and, in future, complaints regarding the failure of organisations to comply with standards.

One of the Commissioner's strategic objectives is to influence the consideration given to the Welsh language in policy developments. Comments on policy are provided in accordance with this remit, acting as an independent advocate on behalf of Welsh speakers in Wales who could be affected by this Bill. Such an approach is advocated to avoid any potential compromise of the Commissioner's regulatory functions and should the Commissioner wish to conduct a formal review of individual bodies' performance or the Welsh Government's performance in accordance with the provisions made in the Measure.

United Nations Convention on the Rights of the Child and the Rights of Children and Young Persons (Wales) Measure 2011

The Rights of Children and Young Persons (Wales) Measure 2011 incorporates all the rights of the United Nations Convention on the Rights of the Child (UNCRC) in Welsh domestic law. A number of UNCRC articles refer specifically to language and expressing opinions.

Article 2 protects the child from suffering language discrimination and places a duty upon nations that are party to it to protect the child from all forms of discrimination. Articles 12 and 13 give the child the right to express opinions unhindered and article 30 gives a child who belongs to a minority the right to use his/her own language in a community with other members of his/her group.

The draft Bill should take advantage of any possible opportunities to avoid the risk of discriminating against Welsh speakers who have additional learning needs as a result of the lack of provision of Welsh language services for them. The draft Bill aims to improve the provision of ALN services in general, but it does not include any specific provision for improving Welsh language services. It is unclear how the draft Bill will contribute towards carrying out the linguistic requirements of UNCRC and the Children and Young Persons (Wales) Measure 2011.



Welsh Government Policy Objectives in relation to the Welsh Language

Strategic Aim 1 of the Welsh Government's Welsh Medium Education Strategy requires an improvement in the process of planning Welsh language provision in the pre-statutory and statutory educational stages for learners with ALN. The Strategy notes that the Government (SO1.5)

'Expects better planning for Welsh medium education provision and services for learners with additional learning needs (ALN) as an integral part of the educational provision nationally, regionally and locally'.

In its strategy for promoting and facilitating use of the Welsh language in daily life, 'Iaith fyw: Iaith byw', the Welsh Government outlines the following aims:

'to increase the provision of Welsh medium activities for children and young people and to increase their awareness of the value of the language; to increase and improve Welsh language services to citizens'.

Despite the acknowledgement in the Welsh Government's Welsh Medium Education Strategy and the 'Iaith Fyw: Iaith Byw' strategy of the need to improve Welsh language services, the draft Bill does not include any provision for improving Welsh language services specifically. There are provisions in the Bill for improving services in general for individuals who have additional learning needs, but no specific measures have been included to improve the Welsh language provision specifically. Therefore it is unclear how the draft Bill will contribute towards achieving the aims of these strategies.

The importance of the Draft Additional Learning Needs and Educational Tribunal (Wales) Bill to Welsh medium learners

A number of children and young people with additional learning needs can be vulnerable people, and ensuring that vulnerable people can gain access to services in the language which they are most comfortable in using is a vital part of providing good service and effective workforce planning. The relevant organizations need to recognize it is only through the medium of Welsh that some people can express their needs effectively, and that services have a duty to meet those needs.

It is suggested in the linguistic impact assessment published with the draft Bill that the language standards introduced under the Welsh Language (Wales) Measure 2011 impose a duty upon relevant organizations to provide ALN services in Welsh. Those standards are not relevant to schools. Clarity is required regarding the statutory duties that will be upon ALN providers to provide in Welsh. Should any gaps arise in the duties upon relevant organizations, the draft Bill should tackle this.



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. The following comment can be found on page 9 of the 'Assessment of the Impact of the Bill on the Welsh Language':

'This draft Bill will ensure better planning for the needs of learners with ALN, including those in Welsh-medium education, and that their needs are better met, and also that provision to satisfy a wider range of needs is better protected.'

However, no specific references to the needs of learners in Welsh medium education can be found in the draft Bill. It is intended that the provisions of the draft Bill, when implemented, will improve the provision of ALN services for children and young people in Wales, including those who speak Welsh. But there is no specific provision in the draft Bill for Welsh speakers who have ALN.

Considering the wording of clause 4.1 of the Welsh Government's Welsh Language Scheme, and the last sentence specifically, it can only be concluded that the Welsh Government is of the opinion that the current provision of ALN services is of the same standard in Welsh as in English and thus that there is no need to make specific provisions in the draft Bill for improving Welsh language services. We would appreciate receipt of the evidence the Welsh Government has to support this finding.

General comments

The Impact Assessment published jointly with the draft Bill places all the emphasis on the requirements upon Local Authorities under the School Standards and Organization (Wales) Act 2013 in order to improve the provision of ALN services in Welsh. Under that Act Authorities are required to prepare Welsh in Education Strategic Plans (WESP), and in drawing up their plans, the Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations (2013) require all Authorities to include '*a statement noting [its] strategy on how to improve Welsh medium education for pupils who require additional learning support arising from any difficulty a pupil has in learning in relation to other pupils of the same age who do not have any difficulty in learning.*' Also, Welsh Ministers have sent guidelines to Local Authorities requiring them to focus on:

- regular inspections of Welsh medium ALN provision
- the methodology for assessing the demand for Welsh medium ALN provision
- arrangements for liaising with parents as part of the needs assessment arrangements
- plans for better developing Welsh medium ALN provision by working with other local authorities / at consortium level

In relation to the above bullet points, the Impact Assessment notes further (page 10), '*where the inspections and/or assessments of demand indicate gaps, local authorities are expected to describe the actions they propose in order to bridge those gaps.*'

The above sentence underlines the importance of collecting evidence not only of the demand from learners for Welsh medium services, but also of the Welsh



language skills of staff who will be providing the whole range of services under additional learning needs. I am of the opinion that registering the skills of providers is equally as important in identifying where gaps in the service exist. I am keen to know what evidence the Welsh Government currently has of the language skills of providers.

It appears, from the statement above, that all the responsibility for providing ALN services will relate to the Welsh in Education Strategic Plans (WESP) and not this new Bill. There are several risks inherent in this:

1. The undertakings in the WESP are not specific enough and neither are they measurable. An obvious example of this is the ambiguity of the undertaking in every WESP to '**better** develop Welsh medium ALN'. There is no definition of what is meant by 'better'.
2. In recent cases where some local authorities have failed to carry out the requirements of their WESP, for example the shortage of Welsh medium primary school places in the Wrexham area and the proposals of Denbighshire County Council to close two Welsh medium Category 1 schools and establish a bilingual Category 2 school, the Education and Skills Minister did not intervene to the furthest extent of his powers to ensure the WESP was carried out. As a result, it is unclear how willing the Education and Skills Minister would be to use his powers under the School Standards and Organization (Wales) Act 2013, should a learner with additional learning needs fail to receive services through the medium of Welsh. This raises questions regarding the propriety of planning the Welsh medium ALN services by means of the provisions of that act rather than within this draft Bill.

It is significant that Welsh in Education Strategic Plans are not included in the list of other '*statutory requirements*' that are relevant to this sector which have been published in the new Code of Practice which accompanies this draft Bill.

Specific comments

The draft Bill requires Local Authorities to establish arrangements for providing children, young people and others with advice and information about ALN and the new system. The draft Bill also requires Local Authorities to offer independent advocacy services to learners if they are considering submitting an appeal to the Education Tribunal.

It should be ensured that information and any advice is available in Welsh to these groups, including any leaflets, websites, support centres, social media etc. It should also be ensured that linguistic needs are a clear requirement in any aspect of this work that is put out to tender. Similarly, it should be ensured that an adequate number of mediators are available who are proficient in the Welsh language who can deal with disputes, and that the Tribunal has the ability to offer service through the medium of Welsh.



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

Another core element of this draft Bill is the emphasis placed on the statutory 'Individual Development Plan' for each child and young person with ALN. The purpose of these plans will be to describe the child or young person's ALN and the additional learning provision needed in order to meet those needs.

Considering how integral is the language medium of any additional learning provision learners may need, it is very difficult to understand why noting the language medium of a learner's education is not among the mandatory requirements of the Individual Development Plan that are noted in chapter 10 of the new Code of Practice.

Closing remarks

This draft Bill has a very wide scope, and has at its core the aspiration to simplify and improve the present system. Unless providing and planning to meet the needs of learners within the Welsh medium education sector receives due regard in the make-up of the Bill and the associated Code of Practice, however, the core aspirations of this Bill will not be realized for Welsh speakers who have ALN.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Meri Huws'.

Meri Huws
Welsh Language Commissioner

Annwyl sir/fadam,

Ysgrifennaf atoch i fwydo'n ôl ar ôl i mi ddarllen y ddogfennaeth ar y ddeddf Anghenion Dysgu Arbennig newydd a ellir ddechrau yn 2017. Ryw'n Athrawes Anghenion Arbennig ac mae gennai o gwmpas 60 o blant ar fy nghofrestr ar hyn o bryd. Rydym yn ysgol o dros 500 o blant felly fe ellir y nifer yma gynyddu.

Mae gennai rhai cwestiynau/safbwytiau yr hoffwn i chi eu hystyried cyn fod y ddrafft yn dod yn gyfraith:

1. Rydw i'n barod yn gwneud cardiau 'Popeth amdanaf fi' ac yn cael cyfarfodydd aml asiantaeth gyda phobl o'r byd iechyd i fy mhlant mwyaf dwys ond byddwn yn ei ffeindio'n galed iawn i drefnu rhain ar gyfer pob plentyn. Mi fyddai creu amserlen i wneud hyn gyda'r athrawon yn gorfol cael eu rhyddhau yn golygu na fyddwn i byth gyda amser i wario yn dod i nabod ac yn dysgu'r plant. Pa werth byddwn i i'r rhieni a'r plant os nad oes gennai amser i wario gyda nhw?
2. Rwyf yn barod yn cynnal 3 cyfarfod y flwyddyn i drafod IEP gyda rhieni ac athrawon. Mae'r syniad o gael un cyfarfod y flwyddyn a'r 3 cyfarfod IEP eto yn mynd i fod yn faich.
3. Pwy sy'n mynd i gael IDP? Ar hyn o bryd mae'r system o gael Adolygiad Blynnyddol yn gweddu anghenion y disgyblion dwys yna sydd yn cael datganiad neu 'Team around the Child' ond nid ydw i'n gweld pwrpas cael cyfarfod o'r fath i bob plentyn ar y gofrestr e.e plentyn sydd a phroblemau sillafu.
4. Pwy sy'n mynd i ariannu gofal 1:1 i'r disgyblion. Fe fydd rhaid cael rhywun holol ddiuedd sydd a arbenigedd yn y byd addysg anghenion arbennig sydd yn penderfynu faint o arian mae pob disgybl/ysgol yn ei gael. Ni fydd yr ysgolion yn medru penderfynu hyn rhwng ei gilydd.
5. Mae'n dweud yn y ddrafft fod un person am gyd-lynu'r gwaith gyda'r byd iechyd a sicrhau perthynas dda rhwng yr ysgolion a'r bwrdd iechyd. Yn fy marn i fe fydd angen cael tîm o bobl i bob sir ac fe fydd angen sicrhau darpariaeth Gymraeg ar y timoedd hynny i weithio gyda'r ysgolion Cymraeg.

Diolch am eich amser yn darllen fy e-bost, gobeithio y bydd o fudd wrth i chi fwrw mlaen a'r broses.

Bethan Davies

Re: Consultation comments with regards to the draft Additional Learning
Needs and Education Bill (Wales)

To whom it may concern:

I will react briefly in bullet form to the implications of the bill. Our LEA has provided a more detailed response to the bill and we fully endorse their view. As a school we have grave concerns with regards to the:

- additional resourcing required in view of the budget reductions and reduced staffing within schools and LEA. The support from LEA is now at a minimal level and we are not in a position to support pupils who need their specialist resources.
- workload on our ALNCOs and teaching staff. We are not in a position to afford to release our core staff to create and provide all documents necessary.
- legal implication on schools since they have core responsibility for organising provision. This is a major worry. It will result in ALNCOs resigning and a lack of newly trained ones.
- lack of forward planning by the government to deal with the increasing social and mental health issues in our society that schools are expected to deal with.
- fact that successful schools will be burdened with additional ALN pupils that will in turn create further strain on schools.

We endeavour that you will take note of our concerns and review your intentions immediately.

Yours faithfully,

John Paul Jones & Karen Thomas
(Head Teacher) (ALNCO)

Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb

i'r

Eich enw: Bethan G. Payne

ymgyngħoriad

Sefydliad (os yw'n berthnasol): Ysgol Bro Pedr

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol
Yr Is-adran Cymorth i Ddysgwyr
Yr Adran Addysg a Sgiliau
Llywodraeth Cymru
Parc Cathays
Caerdydd
CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol	<input checked="" type="checkbox"/>
	Arbennig	
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliadau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliadau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau Iechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliadau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliadau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>

	Arall	<input type="checkbox"/>
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Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae angen eglurhad parthed ystyr y term 'Anawsterau Sylweddol' – ar hyn o bryd, byddai hyn yn cwmpasu ein disgyblion sydd ar ddatganiad neu debyg ond, o dan ddisgrifiad Darpariaeth Ddysgu Ychwanegol, mae'n sôn am 'darpariaeth addysgol neu hyfforddiant sy'n ychwanegol at yr hyn, neu sy'n wahanol i'r hyn, a wneir yn gyffredinol i eraill o'r un oedran' – byddai hyn felly'n cynnwys disgyblion GA. Mae'r diffiniad felly'n aneglur.

O safbwyt ymestyn y ddarpariaeth i 25 oed – sut fedrwn wneud hyn yn yr hinsawdd economaidd bresennol heb wanedu'r ddarpariaeth bresennol i ddisgyblion 0-19?

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mewn egwyddor, mae'r broses yn cynnwys pobl ifanc yn fwy, ond mae'n anodd gweld sut fedrir gweithredu hyn yn effeithiol ac yn effeithlon mewn realiti.

Ym mha ffurf bydd y CDU? Pa ddisgyblion bydd yn hawlio CDU? Bydd atebion y cwestiynau hyn yn cael effaith mawr ar rolau'r staff hynny sydd yn gweithio gydag ADY ar hyn o bryd (boed yn staff ysgol neu'r ALI). Wrth reswm bydd hyn yn effeithio ar elfennau eraill eu rolau presennol – pwy fydd yn cymryd y dyletswyddau hyn? Ydy

hyn yn golygu staffio ychwanegol i gydadfer am hyn? Oes ariannu ychwanegol ar gael i ganiatáu hyn?

Mae dyletswyddau'r ysgolion a'r ALI yn aneglur sydd yn golygu efallai na fydd rhai awdurdodau yn cymryd digon o gyfrifoldeb neu ddim yn cynnig cefnogaeth ddigonol i ysgolion/CADY. Bydd hyn, yn ei dro, yn arwain ar fwy o gwynion/ achosion triviwnlys.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae pwysigrwydd llais y person ifanc yn atseiniō'n gryf yn y Bil drafft. Serch hynny, mae'n anochel y bydd natur biwrocrataidd cynyddol y Bil yn tynnu i ffwrdd o'r lefel / safon o ddarpariaeth sydd yn cael ei chynnig ar hyn o bryd, gan effeithio ar ragleni cefnogaeth presennol ysgolion.

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'r Bil drafft yn amlinellu cynllun ar gyfer gwell cydweithio ond mae unrhyw fethiannau gyda chydweithio presennol yn ganlyniad, yn bennaf, i ddifyg cynrychiolwyr oherwydd toriadau yn y sectorau gwahanol, yn hytrach nag amharodrwydd i gydweithio. Mae'n annhebyg y bydd hyn yn newid er gwaethaf deddfwriaeth newydd.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'n debygol y bydd anghytundebau'n fwy cyffredin gyda'r Bil drafft o ganlyniad i'r pwysau ychwanegol ar asiantaethau (gan gynnwys ysgolion) i berformio'r dyletswyddau a amlinellir yn y Bil drafft o achos cyfyngiadau i'w rolau, megis amser, 'manpower' ayyb. Hefyd, wrth ystyried y niferoedd gall hawlio'r CDU mae'r potensial am dibriwnlys/anghytundeb yn mynd i gynyddu.

Cwestiwn 6 – Dogfennau ategol

A fydd ech cystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanyst.

Nid oes unrhyw gyfeiriad yn y Bil drafft i hawliau pobl ifanc parthed darpariaeth / prosesau ADY trwy gyfrwng y Gymraeg. Wrth reswm, byddai ddisgwyl i hyn fod yn rhan annatod o hawliau person ifanc yng Nghymru.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrwyd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:



Please see below Cardiff and Vale College's responses to the Draft ALN code, it does raise a number of questions

Key elements

- Covers learners from 0 to 25 years
- Each College to have an ALN Coordinator
- Many ALN learners to have an IDP and annual review
- Reviews to be conducted using PCP
- Disagreement and Tribunal Service to be available
- LAs to retain some responsibility to ensure IDPs are maintained in FE

Implications

- Setting organisational policy
- Co-ordinating provision and allocation/management of staff
- Strategic financial planning and effective deployment of resources
- Data collection and analysis
- Professional direction for staff and ensuring IDPs are in line with CoP
- Liaising with learner/parent
- Working to avoid disagreements
- Liaising with schools and external agencies
- Training

Additional Learning Needs (definition)

Implications:

- What constitutes ALN? (And what doesn't?)
- How will LAs interpret this?
- Numbers coming through to colleges
- The key here may be what provision is available to all?
- Can ALN learners achieve within existing differentiated provision?
- Protocols for learners wishing to 'opt-out' of the IDP/review process

Individual development Plans

Implications:

- Training
- Workload
- How are they stored? Built into MIS or separate on-line system?
- It must provide learner/parents with key information
- When would we refer learners to LAs?
- The first IDP must be completed within 7 weeks of identification
- How do we decide when to include/exclude parents (at learner's behest)
- Process needed for passing IDP on to HE/Training

The working relationship with the Local Authority needs to be tight, as there will be learners who will require Speech and Language support or OT support, which fall under local authority supervision.
So who will be the owner of IDP – the college or Local Authority?

Kind regards
Jo McEvoy
Director of Learning CAVC

Issues which affect Alencos Nationwide

- Concerns regarding the lack of capacity in all schools to deliver such ambitious proposals. Schools have never before needed to embrace the work of the Alenco as a position of authority, robust quality assurance and evaluation.
- Much has been broadcast on the Welsh news about Upper Management Teams needing to be answerable when schools fail to deliver. Will the proposed Alenco role be answerable to this degree? Will this be equitable if the role does not carry renumeration comparable with other strategic Upper Management positions? Is this to be a role of enormous responsibility but no authority? Will a TLR be awarded for this work?
- A prescriptive list of what constitutes an Alenco role. Is this pupil attendance and tracking? Teaching the Gifted and Able? Child Protection?
- What proportion of the ALenco role will be co-ordinating and how much will be a teaching role? (Due consideration to the size of the school is paramount).
- Pages 13, 14 and 15 of the Draft ALN Code are informative, however guidance is needed on how an Alenco can contribute to the development and implementation of ALN procedures and strategic financial planning? This has been the sole domain and preserve of Headteachers.
- Such key responsibilities, hopefully would necessitate the appropriate tools and working conditions to promote and realise such aspirations? Please look very closely at how the Alenco is valued. Increased responsibility can only be aspired to, if given the authority required. Monitoring and safeguarding this role is key to its future success .
- Schools are unable to deliver the interventions they would like due to cuts and staff shortages. Schools rely so heavily on long term agency staff that the most vulnerable children are continually failed. Assistants with precarious Level 1 employment, are naturally seeking security and will therefore look to move to a secure post at the earliest opportunity. Vulnerable children can have up to six different people assigned to them within very short periods. Our children pay a high price for a constant new cohort of staff.
- The time deployed dealing with family breakdown is excessive, especially when other agencies are involved. The section on Appeals to the Education Tribunal for Wales point 570 -571 is frightening and could involve an Alenco in continual disputes.
- Increased collaboration with outside agencies is both time consuming and challenging. The lion share of the work (co-ordinating, arranging meetings, planning, paperwork, ensuring delivery) will inevitably rest on the Alenco's shoulders. (Dire shortages in all areas of Wales exist within the Health Service with many areas facing recruitment challenges).
- Will the voice of the Alenco be heard?
- **Please give due regard as to 'What is important for the Alenco? What is important to the Alenco? What is important to support the Alenco?'**
- The Police have a Chaplain appointed to support their most challenged and stressed workforce. Alencos too would benefit from such a service.
- Much rests on your decision making. I respectfully request you consider my observations across Wales.

Draft Additional Learning Needs and Education Tribunal (Wales) Bill - Coleg Cambria response

The Bill will enable more continuity of care, support and development for a much wider range of learners from school to post 16 provision, and this is welcomed. In order for this to happen though, there needs to be enshrined in the ALN code the duty of all pre-16 providers to pass on the Individual Development Plans for all their ALN learners into their post 16 place of learning. Currently there is a patchy picture of data sharing protocols between local authorities and FEIs. Best practice is a planned and phased transition, working in partnership with the school and the post-16 provider.

The widening of scope from statemented learners to learners with school action plans means there needs to be cognisance that there will be wide range of levels of support required for learners, from minimal exam access arrangements to complex educational and care needs. There needs to be the same level of proportionality and reasonability in the level of detail required within IDPs, in order to make the system manageable within an FEI, where there may be over 1,000 learners scoped as having ALN in some form. FEIs will also need the ability to create IDPs where additional learning needs are first identified and diagnosed in post-16 education.

The Bill will develop continuity of care, however, many of the services currently provided for pre-16 learners are not accessible to FEIs, e.g. educational psychologists and speech and language therapists. How will this be scoped out in terms of the principle of continuity of support without additional costs or funding for FEIs?

There is a general principle that FEIs will provide learning for the vast majority of ALN learners, some with more complex personal care and medical care needs. There is a continuing need for local authorities to support FEIs in funding the support workers needed for these higher specialised level of care needs, which are beyond the learning support that FEIs can provide.

Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb

i'r

Eich enw: CATRIN DAVIES

ymgyngħoriad

Sefydlriad (os yw'n berthnasol): YSGOL GYMRAEG
BRO MORGANNWG

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input checked="" type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol Arbennig	<input type="checkbox"/>
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau Iechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>
	Arall	<input type="checkbox"/>

Cwestiynau ymgyngħori

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Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

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Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae Estyn yn defnyddio'r term ADY i gynnwys nifer o grwpiau gwahanol o ddysgwyr, nid yn unig disgyblion sydd ag anghenion addysgol arbennig. Rhaid sicrhau cysondeb yn nhermenoleg y Cod Ymarfer a dogfennaeth Estyn.

Drwy ddefnyddio'r term ADY yn y Cod nid yw'n glir *pa* ddisgyblion fydd eisiau eu targedu ar gyfer Cynlluniau Datblygu Unigol. Os ydym yn cynnwys **bob** plentyn ac ADY, fe all hyn fod yn gannoedd o ddisgyblion mewn ysgol uwchradd ac fe fyddai ysgrifennu CDU i'r niferoedd yma yn amhosib ac yn ddi-angen.

Nid yw'r arweiniad yn ddigon clir ar ba ddisgyblion fydd yn derbyn CDU.

Yr ydym wedi symud i ffwrdd o ysgrifennu CDU i ddisgyblion sydd ar 'Gweithredu Gan yr Ysgol' (dan gyfarwyddid yr AALL), drwy ddefnyddio Map Darpariaeth ysgol gyfan. Nid oes sylw manwl yn y Cod am y defnydd y gellir wneud o Fap Darpariaeth fel ffordd o sicrhau cysondeb am natur y ddarpariaeth sydd ar gael i ddisgyblion, na chwaith fel ffordd o leihau ar y gwaith gweinyddol sy'n glwm â darparu ar gyfer disgyblion.

Mae diffygion sylweddol iawn yn y ddarpariaeth cyfrwng Cymraeg ar gyfer plant a phobl ifanc gydag ADY ar hyn o bryd, a hynny'n aml oherwydd diffyg capaciti/arbenigedd o fewn y gweithluoedd perthnasol.

Rhaid cofio, ymhliith y grŵp oedran cyn-ysgol yn arbennig, bod plant sy'n uniaith Gymraeg. Byddai unrhyw asesiad o blentyn uniaith, neu unrhyw ddarpariaeth ar ei gyfer yn gorfol bod yn y Gymraeg i fod yn ystyrlon.

Nid oes sylw dyledus wedi'i roi i'r mater ganolog hwn yn y Bil ei hun nac yn y dogfennau cefnogol.

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input type="checkbox"/>	Anghytuno	X	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Yn sgil dileu Datganiadau, mae'n ymddangos bod cryn dipyn o gyfrifoldeb yn cael ei drosglwyddo o Awdurdodau Lleol i ysgolion unigol, o ran gwneud penderfyniadau (*determinations*) ac o ran llunio a chynnal CDU.

Os yw hynny'n gywir, mae angen cynllunio ar gyfer y sgil-effeithiau yn arbennig felly yn nhermau:

- neilltuo adnoddau cyllidebol digonol
- sicrhau lefelau staffio digonol
- darparu lefel priodol ac amserol o ran hyfforddiant i staff
- sicrhau bod cyngor arbenigol amserol ar gael i ysgolion – bach iawn o bwyslais sydd ar rol y Seicolegydd Addysg yn y Cod newydd.

Lefel y cyfrifoldeb a'r llwyth gwaith i'r Cydlynnydd ADY

- y llwyth gwaith sylweddol iawn (gan gynnwys materion rheolaethol)
- y cynnydd sylweddol mewn gwaith gweinyddol
- bydd gallu ac amser y CADY i ymwneud yn uniongyrchol ag addysgu yn brin iawn, iawn
- y lefel o arbenigedd sydd ei angen
- yr angen am hyblygrwydd o ran amser i allu cwrdd ag amrywiaeth o randdeiliaid yn ystod y diwrnod gwaith

Y Gymraeg

O ran creu fframwaith cyfreithiol cadarn, nid oes unrhyw gyfeiriad yn y Bil at egwyddorion Mesur y Gymraeg (2011) sy'n datgan na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg. Dylai'r broses gynllunio, ynghyd â phob cam arall yn y broses, fod ar gael drwy gyfrwng y Gymraeg neu'r Saesneg yn ôl dewis iaith y plentyn/person ifanc a/neu rhieni. Dylai'r egwyddor honno gael ei nodi'r glir ar wyneb y Mesur fel gofyniad statudol. Mae prinder adnoddau ac yn enwedig profion darllen a sillafu yn y Gymraeg wedi bod yn rhwystyr feunyddiol. Gyda'r pwyslais ar rol yr ysgol mewn adnabod a chanfod anghenion disgyblion, rhaid sicrhau bod adnoddau addas cyfrwng Cymraeg ar gael i wneud hyn. Nid yw'r adnoddau yma ar gael ar hyn o bryd.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	X	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Oherwydd natur y gwaith gweinyddol fydd yng nghlwm â darparu CDU, fe fydd yr amser sydd gan y CADY i ymwneud yn uniongyrchol ag addysgu yn brin iawn, iawn. Yn aml o fewn ysgol, y CADY y'w person gyda'r arbennigedd i ddiwallu anghenion y disgyblion sydd ag AAA. Nid yw gwaith gweinyddol yn ddefnydd effeithiol o arbennigedd sylwedol y CADY.

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'r pwyslais ar gydweithio i'w groesawu – rhaid osgoi dyblygu diangen a sicrhau cyd-drafodaeth rhwng yr arbenigwyr yn yr amrywiol meysydd er mwyn cynllunio a darparu'n effeithiol ar gyfer y plant a phobl ifanc dan sylw.

Fodd bynnag, mae rhai ystyriaethau pwysig.

Mae angen amser sylwedol ar gyfer cydlynnyd ADY fod ar gael am gyfnodau drwy gydol y diwrnod gwaith. Nid yw hyn yn cydweddu ag amserlen ddysgu.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'r pwyslais yn rol yr ysgol yn hytrach na'r AALI yn golygu bod yna potential ar gyfer gwrthdaro rhwng rheini a'r ysgol pan mai'r ysgol sy'n penderfynu ar y ddarpariaeth fydd disgybl yn ei dderbyn neu ddim yn derbyn.

Cwestiwn 6 – Dogfennau ategol

A fydddech cystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Nid oes unrhyw un o'r dogfennau ategol yn cydnabod bod problemau systemig o ran sicrhau darpariaeth anghenion dysgu ychwanegol yn y Gymraeg. Nid ydynt ychwaith yn cydnabod pwysigrwydd sicrhau bod cymaint â phosib o'r prosesau yn digwydd drwy gyfrwng y Gymraeg yn unol â dewis iaith plant, pobl ifanc a/neu rieni. Nid ydynt felly yn cynnig unrhyw ffordd o fynd i'r afael â'r anawsterau a'r gwendidau hyn.

Dylai'r rhain oll fod yn ofyniadau gorfolol yn y Cod Ymarfer fel bod eglurder ynghylch y cyfrifoldebau, y dyletswyddau a'r hawliau. Yn dilyn egwyddor sylfaenol Mesur y Gymraeg (Cymru) 2011 na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg, ni ddylai darparu neu weinyddu'r broses yn y Gymraeg olygu oedi, na gwasanaeth israddol mewn unrhyw ffordd i'r defnyddwyr.

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanyst.

Rhaid fydd sicrhau hyfforddiant trylwyr gan arbennigwyr yn y maes wrth drosglwyddo o'r gyfundrefn bresennol i'r un newydd.

Gan mai yr ysgol fydd yn gyfrifol am benderfynu ar ba adnoddau bydd eu hangen i fodio anghenion disgylion, fe fydd sefyllfa cylidol yr ysgol yn heriol iawn.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrywd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:



Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb

i'r

Eich enw: Ruth Davies

ymgyngoriad

Sefydliad (os yw'n berthnasol): Ysgol Gyfun Gymraeg Plasmawr a'i chlwstwr o ysgolion cynradd.

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol	<input type="checkbox"/>
	Arbennig	<input type="checkbox"/>
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliadau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg ✓	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliadau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau Iechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliadau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliadau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>
	Arall	<input type="checkbox"/>

Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input type="checkbox"/>	Anghytuno	<input type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input checked="" type="checkbox"/>
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Sylwadau ategol

Mae'n hollbwysig bod y Cod Ymarfer arfaethedig ar gyfer ADY, wrth roi cig ar esgyrn y ddeddfwriaeth, yn diffinio ADY yn ofalus iawn. Rhan o'r rheswm am yr anghysondeb mewn darpariaeth AAA dros Gymru yw bod y diffiniad yn rhy eang. Mae hyd yn oed yn bwysicach cael diffiniad clir a manwl ar gyfer yr hyn a ddisgwylir i fod o dan reolaeth statudol. Hoffwn weld meini prawf cenedlaethol ar hyn.

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input checked="" type="checkbox"/>	Anghytuno	<input type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Adran 14 (1) y geiriad 'Os yw Bwrdd lechyd lleol....yn cytuno' yn golygu y gallai CDU gael ei lunio heb ddarpariaeth iechyd yn rhan ohono. Nid yw hyn yn gwneud synnwyr os mai darpariaeth holistaidd yw'r nod.

Dylai'r angen am GDU, yn dilyn penderfyniad a oes gan blentyn ADY, fod ynglwm â diffiniad manwl a chlir o'r hyn a ddifinir i fod yn ADY, a dylai fod meini prawf llwyddiant yn rhan bwysig o'r broses o benderfynu a oes bellach angen CDU wedi i ddarpariaeth effeithiol sicrhau cynnydd. (Tybiaf y bydd hyn yn fater pwysig i'r ymgynghoriad am y Cod Ymarfer ADY.)

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input checked="" type="checkbox"/>	Anghytuno	<input type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

O dan yr adran yn y Bil Drafft sy'n gofyn bod plant yn mynchu ysgol brif ffrwd (nid ysgol arbennig) oni bai bod hynny'n anghydnaaws â

- a) dymuniadau rhiant y plentyn
- b) darpariaeth o addysg effeithlon i blant eraill

dylid cynnwys c) darpariaeth addas i'r plentyn

Mae hyn yn GORFOD cael ei gynnwys, 'does bosib!

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Yn benodol, teimlwn nad yw'r gofynion deddfwriaethol ar y sector lechyd yn ddigon cryf i sicrhau eu cydweithrediad llawn. Mae'r geiriad yn awgrymu bod ei rôl yn opsiynol. Prif rwystredigaeth Addysg mewn perthynas â phlant sydd ag ADY lle mae angen mewnbwn y sector lechyd, yw'r diffyg cyfathrebu ar ran y sector hon ac, yn wir, y diffyg gwybodaeth am brosesau addysg a deddfwriaeth ADY ar ei rhan.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Er bod gosod holl ddarpariaeth ADY ar lefel statudol yn ymddangos fel cam cadarnhaol, rydym yn pryderu mewn achosion lle mae ysgol yn penderfynu nad oes gan blentyn ADY y gallai rhieni wrthwynebu mewn ffordd nad ydynt yn ei wneud ar hyn o bryd, sef trwy gyfreithwyr. Fel y dywedwyd uchod, mae'n hollbwysig i'r Cod Ymarfer ddiffinio ADY yn glir a manwl er mwyn osgoi sefyllfaoedd o'r fath, gan osgoi sefyllfaoedd lle y gallai plant sydd ag anghenion tebyg mewn Awdurdodau Addysg amrywiol dderbyn darpariaeth wahanol i'w gilydd.

Cwestiwn 6 – Dogfennau ategol

A fyddch cystal â nodi unrhyw adborth defnyddiol sydd gennych yngylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanyst.

Yng Nghymru, foddyd bynnag, teimlwn yn gryf fod angen i'r ddeddfwriaeth ddatgan fod yr hawl i fedru cynnal a gweithredu'r gofynion a'r drefn am ADY trwy gyfrwng y Gymraeg yn hanfodol. Nid yw'n ddigonol i ddweud bod deddfwriaeth arall ynglŷn â'r iaith Gymraeg yn gofalu am hyn. Ein profiad ar hyn o bryd yw bod Awdurdodau Addysg yn osgoi eu dyletswydd i ddarparu gwasanaethau arbenigol ADY i deuluoedd cyfrwng Cymraeg. Yn ogystal, dylai siaradwyr Cymraeg fedru mynchu cyfarfodydd am anghenion addysgol eu plant lle gallan nhw drafod yn gyfangwbl yn y Gymraeg.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrwyd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:



Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb i'r ymgyngoriad

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol
Yr Is-adran Cymorth i Ddysgwyr
Yr Adran Addysg a Sgiliau
Llywodraeth Cymru
Parc Cathays
Caerdydd
CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input checked="" type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol	<input checked="" type="checkbox"/>
	Arbennig	
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau Iechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>
	Arall	<input type="checkbox"/>

Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input type="checkbox"/>	Anghytuno	<input type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input checked="" type="checkbox"/>
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Sylwadau ategol

- Braf yw gweld yr oedran 0-25 gan ei fod yn sicrhau bod cefnogaeth addas yn ei le ar gyfer y rhai mwyaf anghenus.
- Angen gwybod beth yw'r disgwyl pan fo unigolyn yn gadael addysg yn 16/18. Beth sy'n digwydd i'r CDU a phwy sy'n gyfrifol am fonitro os yw'r unigolyn yn dychwelyd i addysg.
- Term ADY – deall pam newid ond fe fydd yn gymsglyd i bawb gan fod y term eisoes yn bodoli ac yn golygu rhywbeth gwahanol.
- Diffiniad ADY – ddim wir yn meddwl bod hwn yn ddigonol. Mae perygl gweld anghysondebau ar draws Cymru. Mae angen enghreifftiau o'r hyn rydych chi'n ystyried sy'n rhoi disgwybl yn y categori ADY e.e. sgôr llai nag 85 yn y profion cenedlaethol. Nod oes angen meinu prawf pendant dim ond syniadau fel y gall y CADY bod yn sicr bod ei penderfyniad yn gywir. Fe fyddai hyn o gymorth mewn trafodaethau gyda rhieni hefyd.
- DDdY - Hapus gyda hwn.

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input checked="" type="checkbox"/>	Anghytuno	<input type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

- Mae'r disgwyliadau yn holol glir er i ni fel clwstwr fod yn bryderus iawn am y cynnydd mewn gwaith papur ac goblygiadau amser a ddaw yn sgil

y CDU.

- Rydym yn falch i weld bod y disgybl yn ganolog i'r broses a bod y broses yn un holistaidd.
- Fe fydd cynhyrchu CDU ar gyfer pob disgybl ar y gofrestr ADY yn achosi llawer iawn mwy o waith papur i'r CDU heb fod ganddynt mwy o amser – angen bod amser CADY i wneud y gwaith yn hollol glir ... hynny yw – CADY yn ddi amserlen.
- Er yn cytuno y dylid cynnwys rhieni yn rhan allweddol o'r broses mae pryder ynghylch yr amser sydd ar gael i gydlynnu'r holl waith. Ar gyfer cynhyrchu CDU teilwng i ddisgyblion ag anghenion dwys, amcangyfrifir y bydd y gwaith trefnu, galwadau ffon, casglu gwaith papur a llythyrru, cynnal cyfarfod, Cofnodi'r cyfarfod yn y dull a ddisgwylir, creu CDU a dosbarthu'r holl wybodaeth wedi'r cyfarfod, yn cymryd yn agos at ddiwrnod cyfan o waith. (Er yn cydnabod y bydd rhai llai dwys yn cymryd llawer llai o amser).
- Mae rhannu'r holl wybodaeth cyfrinachol gydag unigolion perthnasol yn broblem hefyd, bydd mwy o rannu dogfennau nad yw'n bosibl eu hanfon dros ebost o ganlyniad i reoliadau diogelu data, ac felly bydd costau postio yn cynyddu'n sylweddol.
- Mae angen bod yn fwy eglur o ran CDU ar gyfer plentyn LAC – pwy sy'n gyfrifol am y gwaith papur hyn.
- O ran cyfarfodydd CDU, mewn ysgol uwchradd, mae'n debygol y bydd angen aelodau eraill o staff yn rhan o'r cyfarfodydd e.e. tiwtor neu bennaeth blwyddyn. Mae cost rhydhau'r unigolion hyn o'u hamserlenni hefyd.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

- Ddim yn fwy nag y mae ar hyn o bryd o dan cod 2004. Nid oes digon o sylwedd i'r Bil newydd. e.e. pa ddisgyblion ydych chi'n ystyried yw'r rhai ADY – gormod o amwysedd yn y frawddeg 'significantly greater difficulty in learning'. Mae angen syniadau o'r hyn y mae ADY yn ei olygu e.e. sgôr safonedig llai na 85, er mwyn cysoni yr hyn sy'n digwydd mewn ysgolion. Yn ogystal a'r lefelau gwahanol megis y 'Gweithredu Ysgol' a 'Gweithredu Ysgol a Mwy' presennol.
- Mae cyfeiriadau at waith aml asiantaeth sy'n wych. Mae hyn yn hanfodol ar gyfer gweithio gyda phobl ifanc. Mae angen cryfhau hyn ym mhellach gan fod gwneud hyn yn ymarferol yn anodd iawn. E.e. nid yw'n bosibl i ysgolion i gyfeirio unigolion at CAMHS (yng Nghaerdydd beth bynnag). Rhaid i rhan 343 o'r Cod Ymarfer newydd caniatáu i bob asiantaeth gyfeirio a chyfathrebu gyda phob asiantaeth.
- Ni yw'r asiantaeth sy'n gweithio agosaf gyda'r disgyblion a phan mae

- problem dwys mae'n anodd iawn cael y gefnogaeth angenrheidiol yn gyflym heb orfod cysylltu gydag amrywiaeth o asiantaethau eraill e.e. nrys, EP. Mae angen i'r adran hon i fod yn holol di amwys.
- Mae rhannu gwybodaeth rhwng iechyd ac addysg yn hanfodol hefyd – dydy hynny ddim yn hawdd ar hyn o bryd.

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input checked="" type="checkbox"/>
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Sylwadau ategol

Gweler y pwyntiau uchod – yn enwedig am CAMHS a rhannu gwybodaeth.

Mae angen i'r Cod a'r Bil fod yn holol glir bod disgwyl cydweithio a rhannu gwybodaeth.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Ddim yn briodol gan ei fod yn rhoi llawer iawn o b?er i rieni.

Mae pryderon mawr gan fod y bil i weld fel petai yn rhoi llawer o bwer i rieni i apelio a mynd i dribiwnlys os ydyn nhw'n anghytuno gydag ysgol. Mae angen cofio am arbenigedd addysg y CADY a'r ysgolion a gan amlaf mae eu profiad a'u barn yn gadarn ac yn gywir.

O ran mynd i dribiwnlys – os yw ysgol yn cael ei galw i dribiwnlys, pwy sy'n gyfrifol am ariannu hwnna? Ar hyn o bryd mae'r sir yn camu i'r adwy pan fo achos ond a yw hyn yn mynd i barhau gyda'r hyn sydd yn y Cod Ymarfer newydd. Mae'n debygol y bydd llawer mwy o anghydfod yn codi gan fod cymaint o b?er gan y rhieni yn y cod ymarfer.

Cwestiwn 6 – Dogfennau ategol

A fyddch crystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Pryder mawr gennym ni nad yw'r Gymraeg yn cael blaenoriaeth ac nad oes modd ymateb i hynny yn yr ymateb hwn.

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanyst.

Rôl y CADY –

Mae angen sicrhau ei fod yn glir bod CADY yn derbyn amser i wneud y gwaith a ddisgwylir ohono/i. E.e. hyfforddi gweddill y staff, cydlynnu ac ymgymryd a'r gwaith CDU.

Dylid ei wneud yn fwy cadarn os oes disgwyl i CADY fo yn rhan o dim arwain ysgol. Mae modd i ysgolion i ddehongli'r gair 'should' ac fe fydd hyn yn arwain at amrywiadau rhwng ysgolion.

Cymhwyster y CADY – mae angen bod yn benodol am y cymwysterau sy'n addas, e.e. a yw MA mewn AAA yn addas? Diploma SPLD o Gaerllion?

Mae perygl colli nifer o CADY's effeithiol trwy gorfodi'r rhai sy'n gwneud y gwaith eisoes i wneud cymhwyster gorfodol.

Nid oes son am Seicolegwyr Addysg – mae eu rôl nhw yn hanfodol.

Mae angen mwy o gydnabyddiaeth i waith cynorthwywyr dosbarth. Mae eu gwaith yn hanfodol. Mae nifer fawr ohonynt bellach wedi derbyn cymwysterau i lefel uchel ac yn haeddu cydnabyddiaeth am hynny.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrwyd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:



Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb

i'r

Eich enw: Ruth Richards

ymgyngħoriad

Sefydlriad (os yw'n berthnasol): Dyfodol i'r laith

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol	<input type="checkbox"/>
	Arbennig	<input type="checkbox"/>
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliaadau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliaadau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau Iechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliaadau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliaadau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>
	Arall	<input checked="" type="checkbox"/>

Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Byddwn yn cytuno â diffiniadau'r Bil drafft ac yn croesawu'r newidiadau'n gyffredinol. Teimlwn foddy bynnag y tanseilir unrhyw fuddiannau posib i siaradwyr y Gymraeg gan nad yw'r Bil yn cydnabod pwysigrwydd yr iaith nag yn cydnabod y problemau sy'n bodoli o safbwyt darpariaeth Anghenion Dysgu Ychwanegol cyfrwng Cymraeg.

Bydd ein sylwadau i'r ymgynghoriad yn ymwneud â'r hyn y gwelwn ni fel diffygion sylfaenol o safbwyt ymdriniaeth y Bil ag anghenion y Gymraeg.

Mae Dyfodol wedi codi'r materion hyn o'r blaen drwy'r broses ymgynghori, ac yn hynod siomedig i nodi na fu unrhyw welliant.

Heb gyfarch yr anghenion hyn, a nodi'r hawl i brosesau gael eu cynnal drwy gyfrwng y Gymraeg, ni all y Bil honni roi anghenion y plant, pobl ifanc a theuluoedd byddai'n dymuno neu angen gwasanaethau Cymraeg yn gyntaf.

Dylid ychwanegu cymal ar flaen y Bil sy'n sicrhau hawl i gefnogaeth Anghenion Dysgu Ychwanegol drwy gyfrwng y Gymraeg. Dylid cydnabod yn ogystal yr angen i ddatblygu sgiliau ieithyddol y gweithlu: mae hyn yn allweddol os am warchod hawliau ieithyddol a sicrhau cefnogaeth gysont rhwng y gwahanol asiantaethau.

Mae hyn oll yn hanfodol bwysig o ystyried yr ystod oedran dan sylw. Mae'n allweddol i bob oedran, ond yn enwedig y plant ieuengaf rheiny nad ydynt eto'n gyfarwydd â'r Saesneg. Gan fod y Bil yn ymwneud a'r blynnyddoedd cynnar, teimlwn fod angen yn ogystal cyfeirio at ddarpariaeth Dechrau'n Deg.

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Yn arwain o'r sylwadau uchod, byddwn yn pwysio i'r Bil nodi ei bod yn ofynnol i roi cynnig rhagweithiol i blant, pobl ifanc a'u teuluoedd ymwneud â llunio ac adolygu'r CDU drwy gyfrwng y Gymraeg, a chael trafod y CDU yn y Gymraeg drwy gydol y broses.

Er ei bod yn ofynnol i nodi iaith y cartref ar y CDU, nid yw hyn yn ddigonol; nid yw'n cydnabod angen iaith nag iaith addysg y plentyn neu'r person ifanc. Nid oes ychwaith unrhyw awgrym y bydd monitro ar ddarpariaeth ieithyddol, nag unrhyw drefniadau gwella ar sail diffyg darpariaeth.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Ni ellir gwarantu gwell deilliannau i blant a phobl ifanc gydag ADY sy'n siaradwyr Cymraeg heb warchod eu hawliau ieithyddol yn gadarn o fewn y Bil. Mae angen sicrhau gwarchodaeth gyson sy'n rhoi eu hanghenion yn gyntaf. Dyma'r unig ffordd o warantu cydraddoldeb i blant a phobl ifanc gydag ADY mewn cenedl dwyieithog.

Dylid sicrhau trefniadau monitro a chasglu data er mwyn sicrhau bod anghenion ieithyddol yn cael eu diwallu. Nid oes unrhyw sôn am hyn o fewn y trefniadau drafft. Mae angen, er enghraifft monitro a mynd i'r afael â'r bylchau o safbwyt sgiliau staff yn ogystal a sefydlu trefniadau ffurfiol i adrodd ar ddifyg cydymffurfiaeth â dymuniadau ieithyddol a chwynion o safbwyt darpariaeth cyfrwng Cymraeg

Cwestiwn 4 – Rhagor o gydwelweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Heb fynd i'r afael â sicrhau gweithlu addas i ddarparu cefnogaeth arbenigol cyfrwng Cymraeg, ni fydd y sawl sydd angen neu'n dymuno defnyddio'r Gymraeg yn gallu manteisio'n llawn ar unrhyw welliant ddaw yn sgil y Bil.

Mae angen cymryd camau pendant i ddatblygu'r gweithlu i ymateb i'r gofyn hwn. Bydd angen gwneud hyn ar draws yr holl ddisgyblaethau. Byddwn yn argymhell cyd-weithio gyda'r Coleg Cymraeg Cenedlaethol ac ystyried cymhelliant ariannol mewn meysydd lle mae diffyg sgiliau'r Gymraeg.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Yr yr un modd ag y credwn fod angen nodi hawliau ieithyddol mewn perthynas â'r CDU, dylid hefyd sicrhau'r hawl i wrando a gwneud apêl drwy gyfrwng y Gymraeg, a bod yr hawl hwn ar gael mewn tribynlys ac mewn perthynas â phrosesau lleol.

Pan fo angen eiriolaeth annibynnol, dylid sicrhau ei fod ar gael drwy gyfrwng y Gymraeg yn unol a'r gofyn.

Cwestiwn 6 – Dogfennau ategol

A fyddch cystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith

Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Siomedig iawn oedd sylwadau'r Asesiad Effaith mewn perthynas â'r Gymraeg. Yn ogystal ag osgoi unrhyw effeithiau niweidiol, mae Asesiad Effaith hefyd yn fod i ganfod gwelliannau cadarnhaol mewn perthynas â'r nodwedd dan sylw. Ni fanteisiwyd ar y cyfle yn yr achos hwn. Yn wir, oherwydd hyn, mae lle i gredu nad yw'n asesiad digonol

Daeth yr Asesiad i'r casgliad y byddai'r Bil yn welliant o safbwyt y Gymraeg ar y sail y byddai'n welliant i bawb arall; hynny yw, anwybyddwyd anghenion penodol y Gymraeg, gan fethu cyfle i sicrhau gwir welliant.

Mae'r dadansoddiad o'r fframwaith statudol yn wan iawn. Sonnir am y safonau iaith, heb gydnabod nad ydynt yn gyson o un sefydliad i'r llall, ac felly ddim yn fod i sicrhau darpariaeth ieithyddol ddigyfnewid. Ceir gyfeiriadau at Iaith Fyw: Iaith Byw ac at Gynlluniau Strategol y Gymraeg, ond dim sôn am Mwy na Geiriau sy'n sefydlu mai "angen" ac nid "dewis" yw'r Gymraeg. Ym maes Anghenion Dysgu Ychwanegol, rhaid derbyn hyn fel egwyddor graidd

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanyst.

Byddwn yn datgan drachefn bwysigrwydd allweddol nodi a sefydlu hawliau'r Gymraeg ar flaen y Bil, ac yn deillio o hyn yr angen i ddatblygu gweithlu arbenigol all gynnig cefnogaeth cyfrwng Cymraeg ar bob cam o'r broses ac ar draws y sefydliadau.

Mae hefyd angen trefniadau monitro, adrodd ac arolygu gofynion y Bil mewn perthynas benodol ag anghenion y Gymraeg.

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrwyd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:

I respond as the link governor for Learning Support in Milford Haven Comprehensive School.

I have consulted with the ALNCO, but these are my personal comments and should not be taken to represent the view of the Governing Body.

1. I welcome the inclusion of the ALNCO in the SLT. (p.14)
2. I welcome the requirement for the ALNCO to have an ALN qualification (p.16)

Both of these measures will help the status of the ALNCO within the school and so help to prevent this post from simply being an "add on" which has been the case in some schools (although not this one). It will also of course put ALN at the centre of the drive for raised standards. Recruiting "a suitably qualified senior teacher" (p.16 para 46), whilst a welcome necessary benchmark, may be a problem in some parts of Wales.

3. Replacing statements with IDP's is fine as long as the mandatory elements are enforced and that parents are given the right sort of support to seek redress if they are not. Only time and possible court action will show.

The benefit of an IDP is that it is one document, with a statutory 12 month review, but is also flexible and reactive and makes the child and parent a significant part of it.

4. It was worth stating again that the LEA has a legal obligation to keep the ALP in its area under review. (p. 50).

5. Timescales - Seven weeks looks fine for the school to prepare an IDP, but it will depend on the availability of the agencies and professionals for the particular need. Very often there is a shortage and their time is limited - chasing them to find a suitable appointment can be hugely time consuming. I am pleased to see that lack of information must not be a barrier to IDP completion (p. 67) as this has often been used by LEA's as an excuse for delay.

The school seems to be the driver and I welcome that.

6. 30% of our pupils have ALN and although I realise that some IDP's will be more complex than others, this is quite an administrative load to be catered for in a time of reduced resourcing. The draft does not mention this aspect of IDP's.

John Bramley
(Link Governor for Learning Support)

Dr Catrin Edwards
Policy & Campaigns Officer, Sense Cymru

RNIB Cymru and Sense Cymru agree to this evidence being made available publically

1. RNIB Cymru is Wales' largest sight loss charity. We provide support, advice and information to people living with sight loss across Wales, as well as campaigning for improvements to services and raising awareness of the issues facing blind and partially sighted people.
2. There are currently 110,000 people in Wales living with sight loss (1). This includes an estimated 1,935 children and young people aged 0-25 years (2).
3. Sight loss impacts on every aspect of a person's life, including their ability to access education. Since 80% of learning comes through our sight, it is essential that the needs of students with sight loss are recognised and that there is the right support in place. The potential impact of even a relatively moderate visual impairment is significant.
4. There are approximately 1500 learners in Wales who are blind or low vision, equating to approximately 0.2% of the school population (3). These learners need specific interventions in order to access and achieve in mainstream education. There is no specialist school for learners with visual impairment in Wales.
5. Sense Cymru is the national charity working and campaigning for deafblind children, young people and adults.
6. Children and young people who are born deafblind often have a range of sensory needs. For this reason, we tend to use the term Multi-Sensory Impairment (MSI). Much of what we learn about the world around us comes from our eyes and our ears. Children and young people with MSI therefore face significant barriers and require specialist support to enable them to learn and thrive. These barriers can often be different to those faced by children with a single sensory impairment.

7. MSI is a very low incidence condition; there are around 200 children and young people with MSI in Wales (4). Not all children and young people with MSI have this listed as their major or primary need, though it will profoundly affect how they engage with learning opportunities available to them.
8. RNIB Cymru and Sense Cymru welcome the opportunity to comment on the Welsh Government's draft Additional Learning Needs and Education Tribunal (Wales) Bill.
9. This evidence primarily refers to the draft bill in question but is also informed by, and makes reference to, the accompanying draft Code of Practice and draft Explanatory Memorandum where this serves to illuminate commentary on the bill.
10. Our response is informed by two parent and family consultation events held in North and South Wales and informal interviews with young people with MSI in South East Wales.
11. RNIB Cymru and Sense Cymru are part of the Third Sector Additional Needs Alliance (TSANA). This evidence paper specifically focuses on the issues that are relevant to children with sensory impairments and should be read alongside TSANA's submission with regards broader issues affecting all children with ALN.
12. **Definition of Additional Learning Need (ALN) and Additional Learning Provision (ALP)**
13. The proposed definition of ALN, and related ALP, in Section 2 offer little more than an update of the current definitions of Special Educational Needs (SEN) and Special Educational Provision (SEP). Whilst we accept that this brings about an end to the separate category of Learning Difficulties and Disabilities (LDD), which operates for post-compulsory school age young people, it does little else to reform the status quo.
14. We support replacing the term SEN with ALN because the term 'learning' has the potential to acknowledge that children and young people learn beyond the boundaries of 'education' in its more formal and statutory sense. However, as currently drafted, the bill

replicates the current SEN framework's narrow constraints within the formal education setting, missing out on the opportunity to be truly transformative.

15. This has particular implications for children and young people who are not of compulsory school age and who may be accessing learning at nursery, school or Further Education (FE) settings.
16. ALN for children under compulsory school age is defined in 2(3) in relation to the expected barriers that the child will face when they are of compulsory school age. We strongly advocate that children 0-3 with a VI or MSI face barriers to learning in their own right. Children born with VI or MSI are unable to benefit from learning opportunities that others take for granted (e.g. incidental learning from observing their environment) and this disabling effect will be present from birth. These children must not be required to demonstrate that they are 'likely' to have ALN at compulsory school age to justify their ALN at age 0-3 as intervention is required at the earliest opportunity to support their learning and development.
17. ALN for children under compulsory school age is defined in 2(3) in relation to the expected barrier that the child will face when they are of compulsory school age. We strongly advocate that children 0-3 with a VI or MSI face barriers to learning in their own right. Children born with VI or MSI are disabled from learning opportunities many take for granted and this disabling effect will be present from birth. These children must not be required to demonstrate that they are 'likely' to have ALN at compulsory school age to justify their ALN at age 0-3.
18. We welcome 3(2) that states that ALP for a child under compulsory school age 'means education of any kind'. However, we are disappointed and concerned that 68(1) determines that 'educational' is to be interpreted as "education" ("addysg") [which] includes full-time and part-time education'. This again collapses the potential transformative use of the term 'learning' into the restrictive sense of education because it suggests that this

learning will be in the school setting, which cannot be appropriate for children 0-3.

19. The definitions of ALN and ALP for children 0-3 must recognise the role of learning through play. Children with VI or MSI in the early years will use play to develop the use of their available senses and to learn about the world around them. Play is also a vital tool in developing communication for children with MSI in particular. Support to play is therefore essential in ensuring that children with VI and MSI can develop the skills they need to access further learning. Definitions of ALN and ALP must therefore enable children and parents to be supported to access play opportunities in formal and informal settings. This could be implemented through widening the definition of learning to include 'recreational learning' in line with the present definition of training, which includes 'recreational training' at 68(1).

20. **Multi-agency working**

21. Children and young people with VI or MSI who require support to access learning opportunities are likely also to require similar support to access social activities. For children and young people with MSI this is through the provision of an Intervenor, who is specially trained to enable children and young people to access and learn about the world around them. Both groups require the intervention of specialist teachers who hold a qualification in teaching MSI or VI who have experience in supporting their holistic development. Moreover, children and young people with VI or MSI may often have a range of disabilities and health needs, which require input from several specialist services across health, social care and education at any given time. This support must be carefully co-ordinated for maximum impact.
22. Habilitation training teaches a child or young person with sight and/or hearing loss the crucial movement and living skills they need to achieve independence in their daily lives – from catching the bus to making their own tea or safely crossing a road. As habilitation spans across a child or young person's learning, social and independence skills, it often does not fit clearly within any

single agency's responsibilities. Agencies will need to work together to ensure that a child or young person receives the appropriate habilitation training without delay; this will involve effective collaboration and clarity about what is being funded and by which agency. We are disappointed that the Code makes no reference to habilitation whatsoever, or to the qualified professionals required to assist a child or young person to become as independent as they can be and to achieve their full potential. The Code of practice on Part 2 of the Social Services and Well-being Act references the importance of local authorities and Local Health Boards working together to fund and resource the provision of habilitation services for its population. This should be built on in the ALN Code.

23. The draft Explanatory Memorandum lists amongst the purpose and intended effect of the legislation:

Increased collaboration: The new system should support a strong focus on collaboration. All services involved in working with children, young people and their families, including education, health and social services, will have a crucial role to play in working together to deliver efficient, effective, child-centred support for learners with ALN. (3.11)

We welcome this aim. It is therefore with disappointment that we read further in the Explanatory Memorandum that bodies other than the local authority will have functions under the act but

Most of these functions will be the same or similar to functions exercised by these bodies under existing legislation. (3.43)

This is a missed opportunity to legislate for greater joint working between statutory bodies for the benefit of the child or young person.

24. Parents of children with additional needs told us they wanted greater integration between statutory services:

"We've got a social services plan, a plan from the health worker – I get one person coming round, then the next person. It doesn't stop."

25. Whilst we welcome Section 16 that enables the local authority to prepare the IDP at the same time as any other plan the child or

young person may have, which will reduce the burden on children, young people and parents to attend multiple meetings, this will still result in multiple statutory plans for the child, young person or parent to oversee. We believe that this is a missed opportunity to truly integrate provision for children and young people in a holistic way. To take a truly holistic approach, the IDP should include sections on a child or young person's social and health needs in relation to their learning.

26. The draft bill and Code of Practice must also recognise that effective multi-agency working goes beyond the mere ability to share information between agencies efficiently. It is essential that they mandate effective co-ordination and provision of support.
27. Parents and families commented that an independent person to coordinate the IDP planning and review processes, including bringing various agencies and statutory bodies together, would be a support to children, young people and families:

“Early support is critical. People grow together. If you have a key worker, that helps.”

“They should have an Independent Reviewing Operator – someone independent to coordinate the review.”

28. We are therefore disappointed that the current draft Bill does not make provision for the key worker model that was successfully piloted in the Early Support-Cefnogi Cynnwr programme, which was funded by the Welsh Government between 2008-2012.

29. Health

30. In addition to ongoing support from audiology and ophthalmology it is common for children and young people with MSI to have support from health to address their specific health needs, which are likely to contribute to their ALN.
31. We therefore welcome the bill's introduction of the Designated Medical Officer/Designated Clinical Officer as the single point of contact leading on Local Health Boards' (LHB) contribution to ALN, as set out at Section 47.

32. However, we are disappointed that this bill does not place sufficient duties on LHBs to contribute to meeting the child or young person's ALP outlined in their IDP. 14(1) states:

If a Local Health Board or NHS trust in Wales agrees, an individual development plan maintained by a governing body or a local authority for a child or young person may specify that additional learning provision described in the plan is to be secured by that Local Health Board or NHS trust for the child or young person.

For a duty to provide ALP to apply to the LHB or NHS Trust, that LHB or NHS Trust must first agree to provide this. This makes it all too easy for LHBs and NHS Trusts to avoid committing to being partners in meeting a child or young person's ALN. In real terms this could mean an LHB refusing to agree to fund and provide Speech and Language Therapy for a child with MSI who may then go without, or face a significant delay in receiving, the crucial communication development required to meet their ALN.

33. 48(4) states that the LHB 'may bring it [a child or young person's ALN or suspected ALN] to the attention of the appropriate local authority if the health body is satisfied that doing so would be in the best interests of the child.' We would urge that the Code of Practice makes clear that, other than in exceptional circumstances, it will always be in the best interests of the child or young person for the local authority to be made aware of their ALN. This is particularly true for children aged 0-3 with MSI, where early identification leading to early intervention and support is crucial.
34. Parents and families commented that they would like to see greater involvement and representation from colleagues in health in the coordination of ALP, especially for children in the early years:

"Health visitors say at 2 years that they'll see you again in 6 months. That's too long. It needs to be every 6 weeks-3months for a child with additional needs."

- 35. Duty to involve and support children, their parents and young people**

36. We strongly welcome that the bill places a duty at Section 6 on persons exercising functions under the act to have regard to the child, young person or the child's parents' views, wishes and feelings and the importance of their ability to participate in decisions about their ALN and ALP. We hope this will lead to a more person-centred approach to assessment, planning and review. The Code of Practice is clear in its support for this approach.

37. Further, we also welcome 6c:

The importance of the child and the child's parent or the young person being provided with the information and support necessary to enable participation in those decisions.
(6c)

Children and young people with sight loss or MSI, and parents who are visually impaired or deafblind, will require specialist communication support and information in an accessible format and specialist communication support to participate in assessment, planning and review processes.

38. Parents and families have told us of the benefit of child-centred reviews:

"At my son's last review, he was in the review. Not for long. But he brought a bag of things that were important to him to show everyone. Everything was on a board for all to see and everyone could contribute. As a parent I was able to raise my concerns."

However, this does not happen consistently across Wales and many parents told us that they have never been involved in a child-centred review:

"I went to a review and the teacher and head teacher had to leave half way through because they didn't have the time. They had another review to get to straight afterwards."
"We were only given a 1 hour slot for the annual review. There was no chance for it to overrun because appointments were made either side of it. This really wasn't a person centred review!"

39. **Duty to favour mainstream provision**

40. RNIB Cymru and Sense Cymru support an inclusive education system where this is appropriate to the individual needs of the learner. There will be many children and young people with MSI who will benefit and thrive in mainstream settings.
41. A young person with MSI told us why it was important to them to have access to mainstream college, even after being at a special school for their education up until the age of 16:

“My brother went to the college, and my sister went. I wanted to go to the same place as them to be the same as them.”
42. However, there will be some who will be able to meet their personal learning outcomes best in specialist settings. Sensory impairments are very low incidence conditions and often require additional specialist support and resources to access learning that can only be accessed in a special school environment. Mainstream schools cannot always feasibly provide the ALP that best meets a child or young person's needs or provide the right environment for them to thrive; for example, a young person who uses British Sign Language (BSL) as their primary form of communication should be enabled to have access to a BSL-using peer group. This learning environment may need to be provided at a specialist school.
43. We are extremely disappointed and concerned, therefore, that the proposed exceptions to the duty to favour mainstream provision as set out on the face of the draft bill at 29(1) do not include:

- The provision of education that appropriately meets the assessed needs of the child with ALN
- Consideration of the views, wishes and feelings of the young person with ALN

29(4) states that ‘Regulations may provide for circumstances in which subsection (1) does not apply.’ Whilst we agree that further regulation making powers should be made available through the bill in this area for the purpose of future-proofing, we strongly advocate that the above exceptions are included on the face of the bill.

44. It should also be noted that this duty as it is currently phrased, which is also noted as a principle underpinning the ALN framework as outlined in the draft Code of Practice (14), could potentially conflict with the principle of working together in the best interests of the child or young person and the principle of ensuring that the child or young person's views, wishes and feelings should be at the heart of all decision making processes (14).

45. Specialist involvement

46. As VI and MSI are very low incidence conditions it cannot reasonably be expected that a nursery, school or FEI will have the knowledge or capacity to be able to appropriately assess and meet the learning needs of a child or young person with VI or MSI.
47. The Code of Practice under Part 3 of the Social Services and Well-being (Wales) Act requires local authorities to arrange for an assessment of deafblind children and young people by a specialist who is appropriately qualified in the field of deafblindness/MSI. Children and young people with MSI who are being assessed to determine their ALN and ALP must have the same right to input from a specialist in MSI. This specialist must be suitably qualified by holding the Mandatory Qualification in MSI for MSI teachers. The Code of Practice at 332 must clarify this right.
48. The Code of Practice must explicitly acknowledge that children with sensory impairment(s) must have specialist teacher involvement. This must mean input from teachers holding the Mandatory Qualifications for Teachers of VI, Teachers of the Deaf and MSI.
49. The Code of Practice on Assessment under the Social Services and Well-being (Wales) Act 2014 sets out that:

Where a specialist assessment has been carried out, the presumption is in favour of the expert opinion in cases where the expert and generalist practitioner do not agree. (Code 3, 30)

Following this precedent, the Code on ALN must also set out that where a specialist, such as a Teacher of the Deaf and teachers

holding the Mandatory Qualifications in VI and MSI, has been involved in an assessment of a child or young person with ALN, that the presumption is in favour of the specialist's opinion in cases where the specialist and generalist practitioner do not agree.

50. **Individual Development Plans (IDPs)**

51. Children and young people with VI or MSI will always require an IDP to set out the ALP they require to access learning. This must be explicitly noted in the Code of Practice.
52. We strongly urge that local authorities are always responsible for preparing and maintaining the IDP of children and young people with VI or MSI. The very low-incidence nature of sensory impairment and the relatively high level of ALP a child or young person will require to access learning means that it cannot be reasonably expected of nurseries, schools and FEIs to provide this in-house. Moreover, children and young people with sensory impairment(s) will require input from a teacher holding the Mandatory Qualification in VI, HI or MSI, who is likely to be employed by the local authority education inclusion team. We strongly advocate that these specialist teams are maintained and funded centrally, with a ring fenced budget from within the Local Authority.
53. We support the move from Statements, School Action and School Action plus to the IDP providing that the IDP does not represent a backwards step in comparison with the Statement. As a statutory document the IDP must outline the child or young person's legal rights and entitlements to specialist support. At present the bill only requires a description of the child or young person's ALN and a description of their ALP (Section 8). The Code of Practice goes somewhat further in fleshing this out but we are concerned that the current guidance will result in insufficiently robust plans that do not appropriately outline a child or young person's key ongoing support needs, such as the provision of a BSL interpreter or the maintenance of equipment to support hearing or vision. This could helpfully be set out in sections on 'Adaptations', 'Equipment', 'Access support'.

54. We call for a template IDP to support the consistent delivery of ALP across learning establishments and local authorities and facilitate the portability of the IDP across Local Authority boundaries. This will have the added benefit of supporting children, young people and their families to be clearer about their rights and entitlement to support. Several versions of the template could be produced to ensure that it is both age and ability appropriate for the child or young person in question, but the content/sections of the template should be standard.
55. IDPs must be fully accessible to children and young people with sensory impairments. This means that they are produced in a format that they can access through use of low vision devices, text to speech and screen enlarger programmes. Diagrams, tables, pictures or flow charts may not be suitable for inclusion in these formats. Neither should the production of accessible format IDPs be limited to EasyRead versions, which often heavily rely on the use of pictures and images.

56. **ALNCo**

57. We support the intention in the draft bill to require all maintained nurseries, schools and FEIs to appoint an ALNCo and for regulations to make provisions about the necessary qualifications and experience needed by the ALNCo (Section 16(3)). ALNCos must receive specific disability and ALN awareness training that includes awareness of sensory impairment, including MSI. Too often a child or young person's sensory impairment is overlooked as a secondary or additional need in comparison with what is considered their primary or major need. ALNCos must be supported to ensure that they are aware of all sensory needs and can coordinate provision to meet these needs appropriately.
58. The roles and responsibilities of the ALNCo at point 45 of the Code of Practice are vast and expansive. Whilst it is right and proper to be ambitious for the role and to set high expectations, we are concerned that the ALNCo role will be excessive and burdensome. The pressure of making the new ALN framework work should not be shouldered entirely by the ALNCo; local authorities must not be

allowed to offload their responsibilities on nurseries, schools and FEIs through this role.

59. As the ALNCo is establishment-based, we are concerned about the impact a lack of ALNCo, or similar role, will have on children in the early years 0-3 or post-compulsory schools age 16-25, where co-ordination of support is equally necessary.

60. **16-25**

61. We are disappointed that the draft bill does not extend the ALN framework to accommodate young people who choose to pursue learning outside of the school or college setting, such as through apprenticeships, work-based learning and volunteering opportunities that build life skills and employment prospects. All young people 16-25 should have access to the same support that they could expect in a school setting.
62. The effectiveness of the key worker or support coordinator role has been demonstrated for this age group in particular. For example, the evaluation of five pilot projects funded by the Welsh Government that ran from 2008-2011 found:

the projects have improved most young people's experience of the transition from school to college and improved the experiences of those who are making, or have made, the transition from education into adult life. (Holtom et al, 2013: 14)

63. The Code must be clear about the rights of a young person choosing to return to learning after a break from education to an IDP. There must be clear guidance on how this will work in practice.

64. **Dispute resolution**

65. Parents have told us about the current system and their experience of it as adversarial:

"My experience of the system has felt like an attack. I feel like I need an apology. You have a child with a disability and

you're made to feel like you're the one in the wrong who's being demanding."

"I've wasted my time fighting over the Statement. Instead of fighting for more Speech and Language Therapy, I could have been doing something more productive, like learning BSL to communicate with my son."

66. Parents expressed their concern that advice and support for families must be independent and at arms-length from the local authority:

"When charities are involved in giving advice it feels independent."
67. However, further work is needed within the bill to clarify that avoidance and resolution of disagreements services are indeed independently provided. 37(3) and 38(3) suggest that the local authority may be an appropriate source for avoidance and resolution of disagreements or advocacy when the disagreement in question is between the child, young person or family and the school or maintained nursery rather than directly with the local authority. The Welsh Government must recognise that parents may not perceive the school or nursery to be independent from the local authority and will expect to receive support that is appropriately distances from the local authority, such as within in the third sector.
68. Independent advocacy – the enabling of a voice to be heard – should be an option available to all children and young people with ALN who may benefit from this and must be available throughout all processes and stages of the ALN framework. However, as currently drafted, the bill restricts the provision of an independent advocate to children and young people:
 - a) Making, or intending to make an appeal to the Education Tribunal for Wales under this Act,
 - b) Considering whether to appeal to the Tribunal, or

- c) Taking part in or intending to take part in arrangements made under section 37 [avoidance and resolution of disagreements] (38)

We believe that the right to an advocate should be an entitlement of all children and young people who are referred for assessment for ALN at the outset of their journey through the system.

69. Disagreement resolution should be able to run concurrently with appeal to the Education Tribunal for Wales. This will ensure that children and young people who are appealing at local authority level about decisions made by Governing bodies will not experience delay in accessing the services of the Tribunal in comparison with their peers in FEIs, who can go directly to the Tribunal, bypassing the local authority level (see Section 40).

Endnotes

1. Population estimates based on: Access Economics (2009). Future Sight Loss UK: Economic Impact of Partial Sight and Blindness in the UK adult population. RNIB and Mid-2015 Population Estimates, Office for National Statistics (released 25/06/2015).
2. ONS (2012). Statistic based on mid-2012 population estimates and using the 0.2 per cent prevalence estimate.
3. Emerson, E., & Robertson, J., (2010) 'Estimating the number of people with co-occurring vision and hearing impairments in the UK' Lancaster: Centre for Disability Research.
4. Cumberland, P M, Pathai S and Rahi J S (2010) 'Prevalence of eye disease in early childhood and associated factors: findings from the millennium cohort study'. Ophthalmology 2010, 117: 2184-2190.).
5. Holtom, D., Lloyd-Jones, S., Bowen, Rh., Watkins, J. (2013) 'The costs and benefits of transition key working: an analysis of five pilot projects', Welsh Government Social Research.

**Response of the Public Services Ombudsman for Wales
to the Welsh Government's Consultation on the
'Draft Additional Learning Needs and Education Tribunal Bill'**

1. Introduction

- 1.1 I welcome the opportunity to respond to the Welsh Government's Consultation on the 'Draft Additional Learning Needs and Educational Tribunal Bill' which will replace the current Special Educational Needs (SEN) statement system. As Public Services Ombudsman for Wales (PSOW), I investigate complaints made by members of the public that they have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction. As such, I have a unique perspective on the provision of public services in Wales, driven from the views of members of the public who have been dissatisfied with the service they have received.
- 1.2 I can only respond to a consultation based on evidence from my investigations. Therefore rather than answer the specific consultation questions I will provide general comments based on PSOW's experience, which may be helpful to the Welsh Government's consideration of the draft Additional Learning Needs and Educational Tribunal Bill.

2. Impact on the Ombudsman's Jurisdiction

- 2.1 I currently have the power to, and do investigate complaints concerning the assessment and delivery of provision of SEN statements by local education authorities (LEAs). However in the draft bill, responsibility for the delivery of provision contained in additional learning needs plans (which replace SEN statements) will largely be removed from local authorities and will rest predominantly with schools and further education (FE) institutions. As these bodies currently do not fall within my jurisdiction (as they are not included as listed authorities under Schedule 3 of the PSOW Act), this means that I would no longer be able to investigate the majority of these types of complaint.
- 2.2 I would, therefore, urge the Welsh Government to address what amounts to the removal of an existing avenue of redress by either:
 - (a) bringing schools and FE institutions into my jurisdiction (that is as listed authorities under Schedule 3 of the PSOW Act) subject to the exclusion contained in Schedule 2 of the Public Services Ombudsman (Wales) Act 2005 which prevents me from considering action taken by an authority relating to the giving of instruction or the conduct, curriculum, internal organisation, management or discipline in a school or educational establishment; or

- (b) bringing schools and FE institutions into my jurisdiction for this specific purpose.

3. Individual Development Plans

- 3.1 It is clear from the complaints I see that the current situation in respect of the provision of educational learning needs is complex and confusing for service users. I welcome the notion of the development of individual development plans and the vision for joint working between the various local education authorities, schools or colleges and health bodies. This approach has the potential to be more streamlined and effective. However safeguards should be put in place to allow individuals to seek independent redress (as is currently the position) in the event of any delays or inaction in the process and where no statutory right of appeal to SENTW exists.

Public Services Ombudsman for Wales
December 2015

Consultation

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

The draft Bill sets out proposals for a new legislative system for supporting children and young people, aged 0-25, who have additional learning needs.

Dear Sirs,

Here are my views on this subject that you are kindly consulting on. Clearly there needs to be whole new legislative system for supporting children and young people, aged 0-25ish who have additional support and learning needs. As a bipolar person that lives and works on Anglesey I feel that I have fully 'gone through the mill / old antiquated / established system' when it comes to this area.

I had great difficulty at school, college and Keele and Staffordshire Universities studying and gaining my BA, PGCert qualifications due to a fundamental lack of PASTORAL / COACH / MENTOR study support at all levels of my educational journey. What the Bill needs to address in my opinion is better service support provision for bipolars, autism / aspergers, learning disability (I don't like that term I'm afraid) etc. students who have a lot to give and may be 'hard brain wired' / gifted differently to other, 'so called' normal pupils.

It is my hope that ALL PUPILS, irrespective of ability / disability can study under a system that is fit for Wales, fit for young people as future leaders and stakeholders of our society and fit for wider UK society. May Wales lead the way, as it has done with the Mental Health Measure 2010. Many Thanks for your considerations and I look forward to your response if I can be of any further assistance.

Carl R. Hussey, BA PGCert,

Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)

Ffurflen ymateb

i'r

Eich enw: Rebecca Williams

ymgyngħoriad

Sefydliad (os yw'n berthnasol): UCAC

Dylid dychwelyd ymatebion erbyn **18 Rhagfyr 2015** i:

Y Gangen Diwygio Anghenion Dysgu Ychwanegol

Yr Is-adran Cymorth i Ddysgwyr

Yr Adran Addysg a Sgiliau

Llywodraeth Cymru

Parc Cathays

Caerdydd

CF10 3NQ

neu gellir cwblhau'r ffurflen yn electronig a'i hanfon i'r cyfeiriad isod:

e-bost: SENReforms@cymru.gsi.gov.uk

Ymatebwyr	Ysgolion	<input type="checkbox"/>
	Ysgolion arbennig	<input type="checkbox"/>
	Cydlynwyr Anghenion Addysgol	<input type="checkbox"/>
	Arbennig	<input type="checkbox"/>
	Y sector addysg bellach	<input type="checkbox"/>
	Sefydliadau cyn ysgol	<input type="checkbox"/>
	Gweithwyr proffesiynol ym maes addysg	<input type="checkbox"/>
	Undebau athrawon	<input checked="" type="checkbox"/>
	Llywodraeth leol	<input type="checkbox"/>
	Sefydliadau dysgu seiliedig ar waith	<input type="checkbox"/>
	Byrddau Iechyd Lleol	<input type="checkbox"/>
	Gweithwyr iechyd proffesiynol	<input type="checkbox"/>
	Sefydliadau eraill o'r sector cyhoeddus	<input type="checkbox"/>
	Sefydliadau'r trydydd sector	<input type="checkbox"/>
	Unigolion	<input type="checkbox"/>

	Arall	<input type="checkbox"/>
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Cwestiynau ymgynghori

Dylid darllen y cwestiynau hyn ochr yn ochr â'r Bil drafft, y Nodiadau Esboniadol drafft a'r Memorandwm Esboniadol drafft.

Cwestiwn 1 – Cyflwyno'r term ADY ac ystod oedran 0–25

A ydych yn cytuno bod y diffiniadau o Anghenion Dysgu Ychwanegol (ADY) a Darpariaeth Ddysgu Ychwanegol (DDdY) a nodir yn y Bil drafft yn adlewyrchu'n briodol y ffocws a ddymunwn ar anghenion addysgol ac a ydych yn cytuno y byddai'r Bil drafft yn delio'n iawn â'r ystod oedran dan sylw?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'r term ADY eisoes yn dechrau disodli'r hen derminoleg, ac mae UCAC yn gefnogol i hynny.

Nid yw UCAC yn anghytuno gyda'r diffiniadau, a chroesawn yr ymagwedd fwy cydlynol o fewn y gyfraith, ac o ran trefniadau ymarferol, tuag at yr ystod oedran 0-25.

Teimlwn y byddai'r Bil a'r dogfennau atodol, yn enwedig y Cod, yn elwa o gynnig fwy o eglurder yngylch y cyfrifoldebau parthed **y grŵp oedran cyn-ysgol**, yn enwedig pa gorff sy'n ysgwyddo'r cyfrifoldebau. Dylid ystyried cynyddu'r pwyslais ar gydweithio yn y grŵp oedran hwn, gan fod nifer o asiantaethau gwahanol yn gallu chwarae'r rôl werthfawr, gan gynnwys lleoliadau nas cynhelir, a chyrrif yn y sector gwirfoddol a'r trydydd sector. Rhaid cofio bod y blynyddoedd cynnar yn cynnig cyfle i fynd i'r afael â rhai anghenion mewn modd fydd yn lliniaru ar yr anghenion yn nes ymlaen. Rhaid gochel rhag anwybyddu'r sector a'r cyfleoedd cynnar hyn.

Gan fod yr ystod oedran yn ymestyn i 25, holwn pam nad oes darpariaeth ar gyfer trefniadau yn y **sectorau hyfforddiant, prentisiaethau ac Addysg Uwch**?

Mae gennym bryder na fydd y Bil ar ei ffurf bresennol yn mynd i'r afael â'r anawsterau cyfredol o ran sicrhau **darpariaeth gyfrwng Cymraeg** i blant a phobl ifanc, ac yn eu bodloni nhw a'u teuluoedd o ran gweithredu'r prosesau yn eu dewis iaith. Gallai ymestyn yr ystod oedran waethygur sefyllfa, o ran diffyg capasiti o fewn y gweithluoedd perthnasol, er ei fod i'w groesawu mewn egwyddor.

Rhaid cofio, ymhliith y grŵp oedran cyn-ysgol yn arbennig, bod plant sy'n uniaith Gymraeg. Byddai unrhyw asesiad o blentyn uniaith, neu unrhyw ddarpariaeth ar ei gyfer yn gorfol bod yn y Gymraeg i fod yn ystyrlon. A dadleuhn fod yr egwyddor yr un mor bwysig ar gyfer yr ystod oedran gyfan. Nid oes sylw dyledus wedi'i roi i'r mater canolog hwn yn y Bil ei hun nac yn y dogfennau cefnogol.

Un pryder arall sydd gennym yw'r amodau yn Adran 29 y Bil yngylch pryd na ddylid

ffafrio addysg mewn ysgol prif ffrwd. Yr amodau a amlinellir yw bod hynny'n anghydnaus (a) â dymuniadau rhiant y plentyn, neu (b) â'r ddarpariaeth o addysg effeithlon i blant arall. Mae'n ein taro ni'n rhyfedd iawn nad yw anghenion y plentyn ei hun ar frig y rhestr hon. Mae modd dychmygu amgylchiadau ble fyddai'r rhieni'n dymuno i'r plentyn fynychu'r ysgol brif-ffrwd, ac na fyddai hynny'n tarfu ar addysg plant eraill - ond eto i gyd, nad dyna fyddai o les pennaf i'r plentyn ei hun am y byddai'n elwa o ddarpariaeth fwy arbenigol. Mae'n egwyddor holol sylfaenol mai lles y plentyn ddylai gael blaenoriaeth.

Cwestiwn 2 – Proses gynllunio unedig sy'n cynnwys plant a phobl ifanc yn fwy

A ydych yn cytuno y byddai'r Bil drafft yn creu fframwaith cyfreithiol cadarn ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol (CDU)?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Lefel y cyfrifoldeb ar ysgolion

Yn sgil dileu Datganiadau, mae'n ymddangos bod cryn dipyn o gyfrifoldeb yn cael ei drosglwyddo o Awdurdodau Lleol i ysgolion unigol, o ran gwneud penderfyniadau (*determinations*) ac o ran llunio a chynnal cynlluniau datblygu unigol.

Mae cyfrifoldeb sylweddol gan ysgolion ar hyn o bryd, ond o leiaf yn yr achosion hynny ble mae gan blentyn datganiad, mae'n glir mai'r Awdurdod Lleol sy'n gyfrifol am y ddarpariaeth. Bydd angen sicrhau bod ffiniau holol glir rhwng cyfrifoldebau gwahanol asiantaethau, a bod cyd-ddealltwriaeth ynghylch ble mae'r trothwyon o ran trosglwyddo cyfrifoldeb rhwng y naill gorff â'r llall. Bydd cysondeb ar draws Cymru yn y materion hyn yn anhepgor - sy'n ddadl arall dros roi canllawiau cryf yn y Cod.

Dan y drefn newydd, mae'n bosib y bydd y trothwy ar gyfer pryd fydd y cyfrifoldeb yn trosglwyddo o lefel ysgol i lefel Awdurdod Lleol yn uwch – sef dim ond pan fydd (a) penderfynu ar y mater y tu hwnt i allu'r ysgol (b) anghenion dysgu ychwanegol y plentyn neu'r person ifanc yn galw am ddarpariaeth na fyddai'n rhesymol i'r corff llywodraethu ei sicrhau.

Os yw'r dadansoddiad hwn yn gywir, mae angen cydnabod hynny, a chynllunio ar gyfer y sgil-effeithiau yn arbennig felly yn nhermau:

- neilltuo adnoddau cyllidebol digonol
- sicrhau lefelau staffio digonol
- darparu lefel priodol ac amserol o ran hyfforddiant (i gyrrif llywodraethu, arweinwyr ysgol, cydlynwyr ADY, athrawon a chynorthwywyr dysgu)

- sicrhau bod cyngor arbenigol amserol ar gael i ysgolion

Mae'r straen ar ysgolion bach, ble mae lefelau staffio'n isel iawn – ond eto ble mae'r ganran o blant ag ADY yn gallu bod yn uchel - yn debygol o fod yn sylweddol iawn.

Nid yw'r rhain yn faterion y disgwylied eu gweld ar wyneb y Mesur, ond byddem yn disgwyli gweld cyfeiriadau yn y Cod, ac o bosib yn y Memorandwm Esboniadol.

Er mwyn sicrhau prosesau priodol, a chysondeb o un sefydliad i'r llall, teimlwn y gallai'r Cod fynd i fwy o fanylder ynghylch yr union broses y dylid ei dilyn ar gyfer gwneud penderfyniadau (*determinations*) am ADY e.e. a ddylid ymgynghori â gwasanaethau arbenigol megis seicolegydd addysg?

Lefel y cyfrifoldeb a'r llwyth gwaith i'r Cydlynnydd ADY

Croesawn y ffaith bod disgrifiad o'rôlei a chyfrifoldebau'r Cydlynnydd yn y Cod drafft, a chytunwn yn llwyr y dylai'r Cydlynnydd gael llais cydnabyddedig ar yr Uwch Dîm Rheoli gan fod y rôlei yn un strategol â chyfrifoldebau rheoli, a bod angen perthynas gwaith agos gyda'r Pennaeth a'r Corff Llywodraethu. Dylai fod yn aelod o'r Uwch Dîm yn rhinwedd y ffaith ei fod yn (d)deiliad y swydd Cydlynnydd ADY, ac heb fod yn Benhaeth, Dirprwy Benhaeth na Phennaeth Cynorthwyol oherwydd nid ydym yn rhagweld y byddai'n bosib cydbwysa cyfrifoldebau'r Cydlynnydd ADY gydag unrhyw gyfrifoldebau ychwanegol eraill.

Ar hyn o bryd, nid oes digon o fanylder ynghylch y gofynion posib o ran cymwysterau ar gyfer swydd y Cydlynnydd.

Mae'n edrych yn glir o ddarllen y disgrifiad o'rôlei a'r cyfrifoldebau mai swydd llawn amser yw hon. Anodd iawn yw ceisio dychmygu ymgymryd â dyletswyddau o'r fath ochr yn ochr ag amserlen ddysgu a hynny yn sgil y llwyth gwaith sylweddol iawn (gan gynnwys materion rheolaethol), y lefel o arbenigedd sydd ei angen, a'r angen cynyddol am hyblygrwydd o ran amser i allu cwrdd ag amrywiaeth o randdeiliaid - o fewn yr ysgol a thu allan - yn ystod y diwrnod gwaith. Credwn y dylid datgan hynny'n glir yn y Cod. Mae'n bosib y dylid ystyried neilltu o cymorth gweinyddol i'r Cydlynnydd ADY, cymaint yw/fydd gofynion gweinyddol y swydd.

Yn yr achosion hynny ble nad yw'n ymarferol i apwyntio un person llawn amser, er enghraift, mewn ysgolion cynradd bach, credwn y dylid nodi'r posibilrwydd o benodi Cydlynnydd ADY llawn amser ar gyfer clwstwr o ysgolion. Ni chredwn ei fod yn briodol i'r Cod aros yn fud ar y mater hwn.

Mae'n gwestiwn gennym a yw geiriad y Bil Drafft yn caniatáu cyd-benodi o'r fath am fod Adran 46(2) yn dweud bod yn rhaid i ysgol neu Goleg Addysg Bellach 'ddynodi aelod o'i staff' ('must designate a member of its staff') fel Cydlynnydd ADY (fy mhwyslais i).

Bydd angen rhoi ystyriaeth ofalus i rai materion cyflogaeth:

- rhaid sicrhau eglurder ynghylch pwy yw'r cyflogwr os gwneir penodiad ar y cyd
- byddai UCAC yn dadlau dros sicrhau fod y Cydlynnydd yn parhau ar dâl ac amodau athro (telerau'r Ddogfen Cyflog ac Amodau Athrawon Ysgol – STPCD) hyd yn oed os yw'r swydd yn un digyswllt (heb ddyletswyddau

dysgu)

- byddai angen ystyried sut i sicrhau cydnabyddiaeth o ran tâl sy'n gymesur â'r cyfrifoldebau sylweddol iawn, gan y byddai peryg na fyddai swydd ddigyswllt yn gymwys am Lwfans Anghenion Addysgol Arbennig, na Lwfans Cyfrifoldeb Addysg a Dysgu (CAD/TLR) dan delerau cyfredol y Ddogfen Cyflog ac Amodau Athrawon Ysgol
- bydd angen sicrhau bod swydd-ddisgrifiadau yn cael eu diwygio, mewn trafodaeth a gyda chytundeb deiliad presennol y swydd, yn sgil y newidiadau arfaethedig, ac awgrymwn y dylid nodi hynny yn y Cod

O ystyried bod cyfartaledd o 22.5% o ddisgyblion yn ysgolion Cymru ag Anghenion Addysgol Arbennig (yn ôl Gwasanaeth Ymchwil y Cynulliad Cenedlaethol, Awst 2015), mi fydd yn bwysig sicrhau bod lefel yr wybodaeth a fynnir yn y Cynllun Datblygu Unigol yn gymesur â natur anghenion a darpariaeth arbenigol y disgyl. Fel arall, bydd y llwyth gwaith yn gwbl lethol, gyda'r peryg bod prinder amser a sylw i ddelio'n briodol â phob achos, p'un ai'n gymhleth a dwys, neu'n gymharol syml.

Mi allai llunio templed cenedlaethol ar gyfer y CDUau fod yn fanteisiol. Mi fyddai hynny'n osgoi'r gorchwyl o lunio templed eu hunain i bob Cydlynnydd a lleoliad unigol (neu bob Awdurdod). Yn ogystal, mi allai arwain at fwy o gysondeb rhwng Cynlluniau, a fyddai yn ei dro yn hwyluso unrhyw newidiadau o ran lleoliad a chydweithio traws-ffiniol.

Anghenion Hyfforddiant a Chymwysterau

Er mwyn sicrhau'r arbenigedd sy'n angenrheidiol ar gyfer paratoi, cynnal a chadw ac adolygu Cynlluniau Datblygu Unigol, bydd angen hyfforddiant ymhliith staff presennol ysgolion, Colegau Addysg Bellach ac Awdurdodau Lleol, a bydd angen cynllunio ar gyfer cynyddu'r ymwybyddiaeth a'r ddealltwriaeth o faterion ADY ymhliith gweithlu'r dyfodol. Byddai'n fanteisiol yn ogystal i gynyddu'r sylw ar gyrsiau hyfforddiant ar bob lefel i sut i addysgu plant ag amrywiaeth o anghenion dysgu ychwanegol.

Bydd angen ystyried newidiadau i Hyfforddiant Cychwynnol Athrawon (o bosib yn rhan o ddiwygiadau Addysgu Athrawon Yfory/Yr Athro John Furlong), modiwl o fewn y Cwrs Meistr mewn Ymarfer Addysgol, ac elfennau yng nghyrsiau hyfforddiant Cynorthwywyr Dysgu.

Amserlen llunio CDU

Cyfeiria'r Cod, ym mharagraffau 315-321, at amserlenni ar gyfer llunio Cynlluniau Datblygu Unigol. Holwn pam bod angen tair wythnos yn ychwanegol ar Awdurdod Lleol (10 wythnos) o'i gymharu ag ysgol neu Goleg Addysg Bellach (7 wythnos). Gwyddom fod yr achosion y mae'r Awdurdodau Lleol yn ymdrin â nhw yn debygol o fod yn achosion mwy cymhleth; foddy bynnag, mae tair wythnos ychwanegol yn amser sylweddol, yn enwedig i deuluoedd sy'n aros am gefnogaeth a darpariaeth.

CDU i berson ifanc

Mae gennym bryder am Adran 11(2) ac Adran 13 (3) y Bil sy'n nodi nad oes rhaid darparu Cynllun Datblygu unigol os nad yw'r person ifanc yn cydsynio i hynny. Er ein bod yn cytuno â'r egwyddor bod angen i lais person ifanc fod yn ddylanwad cryf ar y

broses, teimlwn y gall bod amgylchiadau pan na fydd y person ifanc yn gwneud penderfyniad sydd o les pennaf iddo/iddi. Lles y person ifanc ddylai fod yn brif ystyriaeth ym mhob achos, ac efallai bod angen mynd i fwy o fanylder ynghylch y mathau o amgylchiadau ac ystyriaethau pan allai bod achos dros beidio gweithredu yn unol â dymuniadau'r person ifanc.

Cyfrifoldebau Byrddau lechyd ac Ymddiriedolaethau GIG

Adran 14 (7): pam nad yw'n ofynnol i Fwrdd lechyd Lleol neu ymddiriedolaeth GIG sicrhau'r ddarpariaeth ddysgu ychwanegol a fynnir gan Dribiwnlys Addysg Cymru 'oni bai bod y Bwrdd neu'r ymddiriedolaeth yn cytuno i wneud hynny'? Ar ba sail y gallant beidio â chytuno i sicrhau'r ddarpariaeth? Mi allai'r ddihangfa hon danseilio'r hawl i ddarpariaeth briodol.

Y Gymraeg

Mae UCAC - a nifer o fudiadau eraill sy'n cynrychioli miloedd o unigolion rhyngom ni - wedi codi mater y Gymraeg ym mhob ymgynghoriad ar y mater hwn dros flynyddoedd bellach, ac nid ydym wedi gweld unrhyw welliant o un drafft i'r nesaf, er i'r Asesiad o'r Effaith ar y Gymraeg nodi yr 'ystyriwyd pob ymateb a ddaeth i law yn sgil ymgynghoriadau blaenorol.'

Nid yw'r dogfennau yn cydnabod bod problemau systemig o ran sicrhau darpariaeth anghenion dysgu ychwanegol yn y Gymraeg. Nid ydynt ychwaith yn cydnabod pwysigrwydd sicrhau bod cymaint â phosib o'r prosesau yn digwydd drwy gyfrwng y Gymraeg yn unol â dewis iaith plant, pobl ifanc a/neu rieni. Nid ydynt felly yn cynnig unrhyw ffordd o fynd i'r afael â'r anawsterau a'r gwendidau hyn.

Dylai bod hawl gan unrhyw blentyn, person ifanc a'u teuluoedd i dderbyn y ddarpariaeth a'r gwasanaeth priodol drwy eu dewis iaith - yn Gymraeg neu'n Saesneg. Ni chyfeirir at y materion hyn o gwbl yn y Bil nac yn y Cod. O ran creu fframwaith cyfreithiol cadarn, byddid wedi disgwyl - o leiaf - cyfeiriad yn y Bil at egwyddorion Mesur y Gymraeg (2011) sy'n datgan na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg.

Os nad oes modd i'r broses gynllunio ddigwydd yn newis iaith y plentyn/person ifanc a/neu rieni, mae peryg eu dieithrio o'r cychwyn.

Cawsom siom o'r mwyaf i weld na roddwyd sylw teilwng i faterion ieithyddol o ran sgiliau'r gweithlu yn yr 'Asesiad o ofynion datblygu'r gweithlu anghenion addysgol arbennig' a gynhaliwyd yn ddiweddar gan yr Uned Pobl a Gwaith ar ran Llywodraeth Cymru. Edrychwyd ar lefel y sgiliau ADY ymhlieth y gweithlu cyfrwng Gymraeg, ond collwyd y cyfle i gynnwys yr iaith Gymraeg fel un o'r sgiliau, ar draws y gweithluoedd cyfan, yr ymchwiliwyd iddynt.

Dywed y Memorandwm Esboniadol (paragraff 7.255) bod cynigion y Bil drafft yn 'cefnogi' strategaeth 'iaith Fyw: Iaith Byw' a'r Strategaeth Addysg Cyfrwng Gymraeg, a'u bod yn 'ategu gofynion Cynllun Strategol y Gymraeg mewn Addysg'. Ymhellach, ym mharagraff 7.256, dywed 'Mae ein cynigion yn cefnogi'r camau i sicrhau darpariaeth Gymraeg. Bydd y Cod yn rhoi gwybodaeth bellach ynghylch darpariaeth Gymraeg.' Nid yw'n glir i ni sut mae'r cynigion yn y Bil Drafft yn 'cefnogi' nac yn 'ategu' darpariaethau'r Strategaethau, gan nad yw unwaith yn crybwyl y Gymraeg.

Ac nid yw'r Cod yn 'rhoi gwybodaeth bellach ynghylch darpariaeth Gymraeg.'

Mae'r Asesiad o'r Effaith ar y Gymraeg yn cynnwys rhestr o bwyntiau y 'mae'n debygol y bydd y Cod drafft yn cynnwys' mewn perthynas â'r Gymraeg, ond ar y cyfan nid yw'r pwyntiau hyn (y datganiadau o egwyddor) yn ymddangos yn y fersiwn drafft o'r Cod a gyhoeddwyd ochr yn ochr â'r ymgynghoriad ar y Bil.

Teimlwn mai gwendid yr Asesiad Effaith yw ei fod yn canolbwytio ar y ffaith y bydd y cynigion deddfwriaethol yn debygol o gael effaith gadarnhaol ar ddysgwyr ag ADY yn *gyffredinol*, gan gynnwys y rheiny sy'n astudio drwy gyfrwng y Gymraeg, ond heb fanylu ar natur yr effaith ar y ddarpariaeth Gymraeg *yn benodol*.

Mae'r cyfeiriad ym mharagraff 14 o'r Cod at Safonau'r Gymraeg yn gyfan gwbl annigonol. Er bod Awdurdodau Lleol yn dod dan gwmpas y Safonau, nid yw'r safonau'n gyson o un Awdurdod i'r llall (h.y. mae hysbysiad cydymffurfio yn pennu pa safonau sy'n benodol gymwys i bob corff), ac felly ni fyddant yn creu darpariaeth gyson ledled Cymru o ran y gyfundrefn ADY. Yn bwysicach byth, nid yw ysgolion yn ddarostyngedig i'r Safonau. Nid yw Colegau Addysg Bellach ychwaith ar hyn o bryd, er bod amserlen ar gyfer eu cwmpasu yn y dyfodol. Ni ellir dibynnu ar y Safonau i greu'r lefel priodol o ddarpariaeth na'r cysondeb y mae wir ei angen, ac ni ddylai'r Bil na'r Cod guddio y tu ôl iddynt gan obeithio y byddant yn datrys popeth.

Nid ydym o'r farm felly bod y Llywodraeth yn gwneud digon i osgoi neu i leihau'r risg o wahaniaethu yn erbyn siaradwyr Cymraeg sydd ag anghenion dysgu ychwanegol.

Credwn y dylai'r Bil ei hun gynnwys datganiad diamwys sy'n nodi'r disgwyliadau o ran darpariaeth drwy gyfrwng y Gymraeg – o ran y ddarpariaeth addysgol yn ogystal â'r gallu i ymwneud â'r broses gyfan.

Dylai'r Cod fynd i fanylder ynghylch y dyletswyddau, y disgwyliadau a'r ymrwymiadau ar lefel ymarferol, gan gynnwys yn Adran 31: Diwygio'r gofynion cofrestru ar gyfer ysgolion annibynnol yng Nghymru, ble dylid nodi yn y gofrestr drwy gyfrwng pa ieithoedd y cynigir y ddarpariaeth.

Cwestiwn 3 – Dyheadau uchel a gwell deilliannau

A ydych yn cytuno y byddai'r Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo?

Cytuno	<input type="checkbox"/>	Anghytuno	<input checked="" type="checkbox"/>	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'n bosib bod y Bil drafft yn helpu i sicrhau bod buddiannau plant a phobl ifanc ag ADY yn cael eu diogelu a'u hyrwyddo yn gyffredinol, ond nid oes unrhyw sicrwydd bod hynny'n wir mewn perthynas â phlant a phobl ifanc sydd am gyfathrebu drwy gyfrwng y Gymraeg. Yn wir, mae risg gwirioneddol o wahaniaethu yn eu herbys.

Cwestiwn 4 – Rhagor o gydweithredu

A ydych yn cytuno y byddai'r Bil drafft yn creu sylfaen i wella'r ffordd y mae asiantaethau yn cydweithio i ddarparu ar gyfer plant a phobl ifanc ag ADY?

Cytuno	<input type="checkbox"/>	Anghytuno	X	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Mae'r pwyslais ar gydweithio i'w groesawu – rhaid osgoi dyblygu diangen a sicrhau cyd-drafodaeth rhwng yr arbenigwyr yn yr amrywiol meysydd er mwyn cynllunio a darparu'n effeithiol ar gyfer y plant a phobl ifanc dan sylw.

Fodd bynnag, mae rhai ystyriaethau pwysig.

Amser a chapasiti: mae angen amser sylweddol ar gyfer cydlynú'r math hwn o gydweithio, ac mae angen i'r person â'r cyfrifoldeb (fel arfer y Cydlynnydd ADY) fod ar gael am gyfnodau drwy gydol y diwrnod gwaith. Nid yw hyn yn cydweddu ag amserlen ddysgu.

Bydd angen sicrhau bod digon o gapasiti o fewn cyrff eraill yn ogystal i ymdopi â'r newidiadau arfaethedig. Mae'r cyfrifoldebau newydd ar Awdurdodau Lleol dros y grŵp oedran 18-25 yn enghraift o gynnydd sylweddol y bydd angen cynllunio, a chyllidebu'n ofalus ar ei gyfer.

Rhannu gwybodaeth: bydd angen sicrhau bod systemau rhannu gwybodaeth cadarn yn eu lle er mwyn gwarantu (a) bod gan sefydliadau'r hawl i rannu gwybodaeth berthnasol a (b) bod y dulliau rhannu gwybodaeth yn ddiogel (*secure*).

Yn ogystal, bydd angen gofal er mwyn sicrhau nad yw ffiniau Awdurdodau Lleol na chyrff iechyd yn achosi problemau o ran cydweithio a rhannu data, yn enwedig pan fydd teulu plentyn neu berson ifanc yn symud, neu'n mynychu sefydliad addysgol mewn ardal wahanol.

Iaith: mae gwaith aml-asiantaeth yn aml iawn yn golygu bod popeth yn digwydd yn Saesneg. Mae'r Byrddau Iechyd yn arbennig yn dueddol o fynnu derbyn pob dogfennaeth yn Saesneg, neu'n bygwth y bydd oedi yn y broses i ganiatáu am gyfieithu.

Mae'r math hwn o gyfundrefn yn gorfodi pobl i ddewis rhwng derbyn gwasanaeth prydion ar y naill law, neu wasanaeth Gymraeg ar y llall. Mae'r holl broses yn creu anghymhelliaid cryf iawn rhag defnyddio'r Gymraeg. Dylid cynnwys dyletswydd ar wyneb y Mesur ar yr asiantaethau i gydweithio a rhannu gwybodaeth yn y Gymraeg os mai dyna ddymuniad y plentyn/person ifanc/rhieni.

Cwestiwn 5 – Osgoi anghytundebau, datrys anghytundebau'n gynharach

a hawliau clir a chyson i apelio

A ydych yn cytuno y byddai'r Bil drafft yn cynnig fframwaith priodol i helpu i osgoi a datrys anghytundeb, a bod sylfaen gadarn i'r darpariaethau'n ymwneud ag apelio?

Cytuno	<input type="checkbox"/>	Anghytuno	X	Ddim yn cytuno nac yn anghytuno	<input type="checkbox"/>
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Sylwadau ategol

Dylid cyfeirio'n benodol, gan gynnwys ym Mhenodau 20 a 21 y Cod, at yr hawl i gael ymwneud â phrosesau datrys anghydfodau ac apeliadau at y Tribiwnlys drwy gyfrwng y Gymraeg.

Mae cyfeiriadau yn y Cod drafft at 'suitable format' a 'plain language', ond dim cyfeiriad at gyfrwng iaith y prosesau.

Cwestiwn 6 – Dogfennau ategol

A fyddch cystal â nodi unrhyw adborth defnyddiol sydd gennych ynghylch y dogfennau ategol a gyhoeddwyd ochr yn ochr â'r ymgynghoriad hwn, h.y. y Memorandwm Esboniadol drafft (gan gynnwys yr Asesiad Effaith Rheoleiddiol), yr holl Asesiadau o Effaith a'r Cod ADY drafft (a gyhoeddir yn yr hydref).

Y Gymraeg (yn y Cod, y Memorandwm Esboniadol a'r Asesiadau o Effaith)

Nid oes unrhyw un o'r dogfennau ategol yn cydnabod bod problemau systemig o ran sicrhau darpariaeth anghenion dysgu ychwanegol yn y Gymraeg. Nid ydynt ychwaith yn cydnabod pwysigrwydd sicrhau bod cymaint â phosib o'r prosesau yn digwydd drwy gyfrwng y Gymraeg yn unol â dewis iaith plant, pobl ifanc a/neu rieni. Nid ydynt felly yn cynnig unrhyw ffordd o fynd i'r afael â'r anawsterau a'r gwendidau hyn.

Dyma rai enghreifftiau o fannau y mae UCAC yn galw am sylw penodol i'r Gymraeg ar wyneb y Cod:

- Pennod 2 y Cod:** dylai'r hawl i gael darpariaeth Gymraeg ac ymdrin â'r prosesau drwy gyfrwng y Gymraeg gael ei nodi yn yr adran Egwyddorion; dylai bod cyfeiriadau yn y cyd-destun hwn at Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn (gofynion ieithyddol), Mesur Hawliau Plant a Phobl Ifanc (Cymru), Strategaeth Addysg Cyfrwng Cymraeg Llywodraeth Cymru, a Iaith Fyw: Iaith Byw (Strategaeth Iaith Llywodraeth Cymru)
- Pennod 4 y Cod: Cynnwys a chefnogi plant, eu rhieni a phobl ifanc:** mae'r bennod hon yn ymdrin â dyletswyddau i annog cyfranogiad plant, eu rhieni a phobl ifanc yn y broses, a chamau ymarferol y dylid eu cymryd i hwyluso hynny. Fodd bynnag, ni sonnir unwaith am bwysigrwydd parchu dewis iaith y plant a'u

rhieni, a phobl ifanc yn y broses hon.

- **Pennod 5 y Cod** (mewn perthynas ag Adran 7 y Bil: Cyngor a Gwybodaeth): Teimlwn yn gryf iawn y dylid nodi'n ddiamwys bod disgwyl i'r wybodaeth a chyngor y cyfeirir atyt fod ar gael yn y Gymraeg – boed ar bapur, yn electronaidd neu ar lafar. Dylai'r gofyniad rhwymo nid yn unig yr Awdurdodau Lleol, ond unrhyw ddarparwyr allanol sy'n ymgymryd â'r gwaith ar ran yr Awdurdodau Lleol. Os oes cytundeb lefel gwasanaeth, disgwylir i ddarpariaeth ddwyieithog fod yn amod o'r cytundeb.
- **Pennod 10 y Cod: Cynnwys Gorfodol y Cynlluniau Datblygu Unigol:** Nodir '*the language spoken at home by the child or young person*' fel un o'r darnau o wybodaeth sy'n ofynnol; awgrymwn y dylid addasu hynny i nodi '*languages*' yn y lluosog, gan mai dyma'r realiti i gyfran helaeth o gartrefi Cymru. Ond yn bwysicach na hynny, nid oes unrhyw sôn yma am (a) cyfrwng iaith addysg y plentyn/person ifanc (b) ai yn y Gymraeg neu'r Saesneg yr hoffai'r plentyn/person ifanc a'i rieni ymdrin â'r broses ADY. Mae hyn yn fwlich amlwg a phwysig.
- **Pennod 11 y Cod: Canllaw ar gynnwys y Cynlluniau Datblygu Unigol:** fel uchod, mae diffyg cyfeiriadau at arferion a dewisiadau ieithyddol yn nodweddu'r bennod hon. Er y sonnir am '*communication and/or access requirements relevant to the child, young person or their families*', rydym yn gadarn o'r farn y dylid cyfeirio'n benodol at y Gymraeg, ac at yr angen i gymryd i ystyriaeth a pharchu dewisiadau ieithyddol yr unigolion dan sylw.
- **Pennod 14 y Cod: Trafnidiaeth:** mi ddylai paragraff 355 nodi fod y Mesur Teithio gan Ddysgwyr (Cymru) 2008 yn gosod dyletswydd ar Awdurdodau Lleol i 'hybu mynediad i addysg a hyfforddiant drwy gyfrwng y Gymraeg.'
- **Pennod 15, paragraff 373 y Cod** (mewn perthynas ag Adran 26 y Bil: Dyletswydd i dderbyn plant i sefydliadau a enwir): dylai cyfrwng iaith y ddarpariaeth fod yn un o'r ystyriaethau o ran a yw'r addysg a ddarperir yn addas.
- **Penodau 20 a 21 y Cod:** Dylid cyfeirio'n benodol at yr hawl i gael ymwneud â phrosesau datrys anghydfodau ac apeliadau at y Tribiwnlys drwy gyfrwng y Gymraeg.

Dylai'r rhain oll fod yn ofyniadau gorfodol yn y Cod Ymarfer fel bod eglurder yngylch y cyfrifoldebau, y dyletswyddau a'r hawliau. Yn dilyn egwyddor sylfaenol Mesur y Gymraeg (Cymru) 2011 na ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg, ni ddylai darparu neu weinyddu'r broses yn y Gymraeg olygu oedi, na gwasanaeth israddol mewn unrhyw ffordd i'r defnyddwyr.

Adnoddau (yn yr Asesiad Effaith Rheoleiddiol)

Bydd cyflwyno system newydd ar gyfer ADY yn gofyn am adnoddau sylweddol. Heb os, bydd costau uwch yn y cyfnod pontio (ar gyfer lefelau uwch o hyfforddiant ym mhob sector perthnasol, ac ar gyfer codi ymwybyddiaeth ac ymgysylltu â rhanddeiliaid, ac ar gyfer gosod systemau newydd yn eu lle). Mae'n bosib y bydd costau hirdymor uwch yn ogystal. Nid ydym wedi ein darbwyllo bod gwaith digon trylwyr wedi'i gyflawni hyd yma i greu darlun manwl a chywir o'r oblygiadau cost – yn

enwedig i Awdurdodau Lleol, ond i ysgolion, colegau a chyrrf eraill yn ogystal.

Cwestiwn 7

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi faterion perthnasol nad ydym wedi rhoi sylw penodol iddynt, defnyddiwch y blwch isod i roi gwybod i ni amdanynt.

Sicrhau ansawdd

Beth yw'r trefniadau a phwy sy'n gyfrifol am sicrhau ansawdd y prosesau a'r ddarpariaeth? Ai'r prosesau apêl a'r Tribiwnlys yw'r prif fecanweithiau? Bydd rôl gan Estyn o ran ysgolion, Colegau Addysg Bellach (ac Awdurdodau Lleol?), ond beth am randdeiliaid eraill megis Byrddau lechyd?

Mae Adran 50 y Bil, a pharagraffau 236-238 o'r Cod yn ymwneud â 'Hawl awdurdod lleol i gael mynediad i fangreuoedd ysgolion a sefydliadau eraill.' Cymrwn mai at ddibenion sicrhau ansawdd y mae'r darpariaethau hyn yn cael eu gwneud. Teimlwn y dylid ymhelaethu ar yr hyn a gynhwysir yn y Cod am y mater hwn o ran y 'specific circumstances' pan ganiateir mynediad, ac at ba bwrvpasau yn union. Er enghraifft, a yw mynediad o'r fath yn cynnwys yr hawl i arsylwi gwersi?

Mae ymatebion i ymgynghoriadau yn debygol o gael eu gwneud yn gyhoeddus, ar y rhyngrywd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch yma:

