

Respondent Details

Name

Respondent requested anonymity

Organisation (if applicable)

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The terms 'must', 'must not', may, 'should' and 'should not' may be used for legal matters but if one of the main objectives of the ALN Act is to develop a **'fair and transparent system for providing information and advice'** the terms are certainly not clear. The draft code is **NOT** written in clear language which does not make it fair to non-professionals as it is very difficult to read and understand and goes against one of the main objectives of the ALN Act **'to revise a system found by previous reviews to be complex, bewildering and adversarial'**. For the same reason professionals are going to be difficult to provide information and advice using a code that is full of jargon. The draft code uses the terms throughout the document until the chapter relating to the role of 'ALNCo' where every term is 'must'. It is the view of many professionals that this will put immense strain on the key members of staff with the role of 'ALNCo'. It will also make it easier for individuals to go to tribunal which also goes against one of the main objectives of the ALN Act **'to make arrangements for avoiding and resolving disagreements'**. It is particularly concerning when 'must' is used as there will be many occasions where this will not be possible.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Putting rigid timescales on services that have already had major cuts to their budgets and who use vastly different ways of working will cause more disagreements rather than resolve them. If a young person or parent states that there is a concern of ALN there will be occasions where an IDP will not be able to be put in place within 7 weeks. If disagreements are to be avoided the code of practice needs to be clearer and systems need to be more integrated. A fair way would be to have a national agency or organisation where all people involved with children and young people from 0 to 25 could refer concerns of ALN. This central body could then decide whether there is an ALN and 'sign post' that person to the correct place to seek **'information and advice'**. When we are dealing with children and young people from 0 to 25 there are going to be a great deal of separate agencies and organisations involved (e.g. JAFF, TAF, Action for children, Snap Cymru, Social services, parents & foster parents, ISCAN, HI, VI, health, GPs, hospitals, private nurseries, Early years provision, Flying Start, schools etc.) which all have different agendas and working systems. If a 7 week timescale is desirable a central agency or organisation is essential to produce a **fully 'integrated, collaborative process of assessment, planning and monitoring which facilitates early, timely and effective interventions'**. If major amendments are not made to the draft code there will be more disagreements rather than fewer.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The 'general exception' is not clear.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The draft ALN COP is extremely 'wordy' and full of jargon. Several chapters repeat what has already been stated and it does not fulfil one of the main objectives of the ALN Act which aims to **'to revise a system found by previous reviews to be complex, bewildering and adversarial'**.

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

However the functions and processes need to be amended to produce a **fully 'integrated, collaborative process of assessment, planning and monitoring which facilitates early, timely and effective interventions'**.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is appropriate but the draft ALN COP is extremely 'wordy' and it does not fulfil one of the main objectives of the ALN Act which aims to **'to revise a system found by previous reviews to be complex, bewildering and adversarial'**.

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is appropriate but the draft ALN COP is not clear and does not fulfil one of the main objectives of the ALN Act which aims to **' revise a system found by previous reviews to be complex, bewildering and adversarial'**.

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Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is appropriate. However, the draft ALN COP is not clear which makes it difficult to provide advice and information which does not fulfil one of the main objectives of the ALN Act which aims to **'revise a system found by previous reviews to be complex, bewildering and adversarial'**.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The definition of ALN needs to be made MUCH clearer as the current definition is ambiguous which will lead to disagreements and goes against one of the main objectives of the ALN Act **'to make arrangements for avoiding and resolving disagreements'**.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered needs further clarity as the current explanation is ambiguous which will lead to disagreements and goes against one of the main objectives of the ALN Act **'to make arrangements for avoiding and resolving disagreements'**.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

However all people involved with children and young people from 0 to 25 could refer concerns of ALN should use exactly the same format and should not be changed in any way.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The content is appropriate but it is not child/ young person friendly.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The draft ALN COP is not clear which makes it difficult to provide advice and information which does not fulfil one of the main objectives of the ALN Act which aims to
'revise a system found by previous reviews to be complex, bewildering and adversarial'.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Putting rigid timescales on services that have already had major cuts to their budgets and who use vastly different ways of working will cause more disagreements rather than resolve them. If a young person or parent states that there is a concern of ALN there will be occasions where an IDP will not be able to be put in place within 7 weeks. If disagreements are to be avoided the code of practice needs to be clearer and systems need to be more integrated.

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Putting rigid timescales on services that have already had major cuts to their budgets and who use

vastly different ways of working will cause more disagreements rather than resolve them. If a young person or parent states that there is a concern of ALN there will be occasions where an IDP will not be able to be put in place within 7 weeks. If disagreements are to be avoided the code of practice needs to be clearer and systems need to be more integrated.

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As the definition of ALN and when an IDP should be put in place this is also true of when ceasing to maintain an IDP.

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 39 – Are the timescale requirements to act "promptly" in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

If a system is to be fair and transparent every group of people should be treated the same. However, Putting rigid timescales on services that have already had major cuts to their budgets and who use vastly different ways of working will cause more disagreements rather than resolve them. If a young person or parent states that there is a concern of ALN there will be occasions where an IDP will not be able to be put in place within 7 weeks. If disagreements are to be avoided the code of practice needs to be clearer and systems need to be more integrated.

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is the view of many professionals that this will put immense strain on the key members of staff with the role of 'ALNCo'. It will also make it easier for individuals to go to tribunal which also goes against one of the main objectives of the ALN Act 'to make arrangements for avoiding and resolving disagreements'.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

'Case friends' will lead to legal representation from 'no win no fee' companies which will lead to a greater number of disagreements and cost the WAG even more time, money and resources.

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

I have taken a great deal of time to read and re-read the draft ALN code individually and with other professionals. I have been involved in education and SEN/ALN for 22 years so I really hope the comments I have made are read and noted. If you compare the draft ALN code with the 3 main objectives of the ALN Act they **DO NOT** reflect one another.

- The draft ALN code **DOES NOT** provide a unified and legislative frame work which facilitates what the ALN Act is trying to provide.
- The draft ALN code **DOES NOT** create an integrated and collaborative process of assessment, planning and monitoring which facilitates early, timely and effective interventions.
- The draft ALN code **DOES NOT** set out a fair and transparent system for providing information and advice

Greater focus, advice and support needs to be invested in the early years setting especially 0 to 3. If children are given the right start they will need less support in secondary and FEI settings which will create better futures, more skilled and confident individuals and save a great deal of time, resources and money in adult education, mental health and un-employment.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

They are appropriate but not clear.

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALNCos need to be given clear time, support and advice to help them to carry out their duties. Qualifications are important but it does not replace experience. Systems need to be put in place to support ALNCos especially those who are new to the post if the new ALN Act is to fulfil its main objectives.

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The chapter that describes what ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations is the only chapter to have '**must**' for every statement. In a time when 'well-being' is at the forefront of everyone's minds the tasks that ALNCos '**must**' carry out are not realistic, will cause a great deal of stressful situations which will lead to greater disagreements, concerns and appeals

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

All groups of young people should use the same form to provide a 'fair and transparent system'.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

If the ALN draft code is not made clearer it will result in greater concerns, appeals and disagreements for all the reasons I have previously stated. The definition of ALN is not clear, time scales and tasks for the ALNCo are not realistic.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

It is easy to state that every child with ALN will have access to Welsh but it is not currently possible. When professionals are employed to support children and young people with ALN we need them to possess the correct skills, which will not always include the knowledge of the Welsh language.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Whether Britain finally decides to leave Europe or not I would hope that Wales continues to be a country that accepts and integrates individuals of different race and gender. Welsh and all other languages including English should have its place in a modern Welsh culture. Individuals working with and supporting children and young people with ALN who have the correct skills and attributes should be given every possible opportunity to do the best job they can regardless of what language they speak. We do not want any kind of discrimination or positive discrimination in a system that provides ' **an integrated, collaborative process of assessment, planning and monitoring which facilitates early, timely and effective interventions**'.

Question 65 – 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.

Respondent Details

Information

Name

Respondent requested anonymity

Organisation (if applicable)**Part 1 of the consultation: The draft ALN Code****Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Timescales**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Too many outside factors (agencies, teaching responsibilities etc.)

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Wording of draft code is ambiguous. Meaning must be clarified

Structure of the draft ALN Code**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Too lengthy

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The LA must provide advice for each cluster to give to parents / staff

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is not specific enough

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Again not specific enough. Shouldn't be "might" - needs to be more definitive.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Welsh comment
 Order / color of

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Need example to follow. May suit difference age pupils. Very wordy if it is "child friendly"

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Not clear in parts

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It would be recorded as an addition

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Too wordy. Need example of how it should be reviewed
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Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Not long for external reports to be reviewed

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Could this be reduced? Time frame, sometimes impossible to achieve

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Time allocation for ALNCO (24.5)
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Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

<p>_____</p>	
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Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – 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.

Respondent Details

Information

Name

Lauren Hathway

Organisation (if applicable)

Treorchy Primary School

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Timescales**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

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Supporting comments

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Structure of the draft ALN Code**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Supporting comments

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Supporting comments

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Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Supporting comments

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Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

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Supporting comments

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Supporting comments

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act "promptly" in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

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Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input checked="checked" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Respondent Details

Information

Name

Respondent requested anonymity

Organisation (if applicable)**Part 1 of the consultation: The draft ALN Code****Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsTimescales**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsStructure of the draft ALN Code**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

An assessment should be made of the exposure the child or young person has had had in the past to each of the languages they speak.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

11.17 increased participation of children and parents will require EAL Specialist support i.e. translation person centred practice EAL professionals ARE NOT HIGHLIGHTED IN THE POLICY TO PROVIDE SCHOOLS ADVICE, ASSESSMENT, TRANSLATION AND INTERVENTION.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Paragraphs 7.24-7.27 clearly indicate the specialist nature of identifying ALN for pupils with EAL/WAL. Ensuring effective communication with EAL/WAL pupils and parents also requires specialist knowledge and expertise. In particular paragraph 7.27 states:

7.27 - An assessment should be made of the exposure the child or young person has had in the past to each of the languages they speak, the use they make of the languages currently and their proficiency in them. Information about language skills obtained in this way will form the basis of all further work with them, both in assisting to understand their needs and in planning any additional language support required.

- However, there is no available guidance for ALNCO's or other professionals which would support practitioners in the identification and/or ALP required for this group of vulnerable learners. Nor is there clear guidance within the code regarding the use of translation or interpretation services for pupils and parents whose first language is neither English nor Welsh.
- We have considerable concerns that this group of learners has been omitted from all of the relevant guidance and legislative documents, including the guidance for ALNCO's.

Current practice in most schools in North Wales usually means that the ALNCO has responsibility for EAL pupils, and for ensuring that any ALN is identified and ALP is effectively put into place. If this duty is omitted from all documentation, the specific needs of this vulnerable group of learners need not be considered as part of the future role. This is particularly concerning in light of the current political climate, the reduction in LA

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

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Supporting comments

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Supporting comments

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Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

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Supporting comments

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Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

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Supporting comments

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

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Supporting comments

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The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

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Supporting comments

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Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

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Supporting comments

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Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

EAL External services should be highlighted to provide guidance and professional advice. It will ensure collaboration if EAL specialist services are mentioned in ALN matters regarding EAL pupils. There are a growing number on our registers of EAL pupils with ALN.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No mention of EAL service *Support*

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Paragraphs 7.24-7.27 clearly indicate the specialist nature of identifying ALN for pupils with EAL/WAL. Ensuring effective communication with EAL/WAL pupils and

parents also requires specialist knowledge and expertise. In particular paragraph 7.27 states:

7.27 - An assessment should be made of the exposure the child or young person has had in the past to each of the languages they speak, the use they make of the languages currently and their proficiency in them. Information about language skills obtained in this way will form the basis of all further work with them, both in assisting to understand their needs and in planning any additional language support required.

- However, there is no available guidance for ALNCO's or other professionals which would support practitioners in the identification and/or ALP required for this group of vulnerable learners. Nor is there clear guidance within the code regarding the use of translation or interpretation services for pupils and parents whose first language is neither English nor Welsh.
- We have considerable concerns that this group of learners has been omitted from all of the relevant guidance and legislative documents, including the guidance for ALNCO's.

Current practice in most schools in North Wales usually means that the ALNCO has responsibility for EAL pupils, and for ensuring that any ALN is identified and ALP is effectively put into place. If this duty is omitted from all documentation, the specific needs of this vulnerable group of learners need not be considered as part of the future role. This is particularly concerning in light of the current political climate, the reduction in LA

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Parents of EAL pupils require EAL service support unmentioned

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

- Paragraphs 7.24-7.27 clearly indicate the specialist nature of identifying ALN for pupils with EAL/WAL. Ensuring effective communication with EAL/WAL pupils and parents also requires specialist knowledge and expertise. In particular paragraph 7.27 states:

7.27 - An assessment should be made of the exposure the child or young person has had in the past to each of the languages they speak, the use they make of the languages currently and their proficiency in them. Information about language skills obtained in this way will form the basis of all further work with them, both in assisting to understand their needs and in planning any additional language support required.

- However, there is no available guidance for ALNCO's or other professionals which would support practitioners in the identification and/or ALP required for this group of vulnerable learners. Nor is there clear guidance within the code regarding the use of translation or interpretation services for pupils and parents whose first language is neither English nor Welsh.

- We have considerable concerns that this group of learners has been omitted from all of the relevant guidance and legislative documents, including the guidance for ALNCO's.

Current practice in most schools in North Wales usually means that the ALNCO has responsibility for EAL pupils, and for ensuring that any ALN is identified and ALP is effectively put into place. If this duty is omitted from all documentation, the specific needs of this vulnerable group of learners need not be considered as part of the future role. This is particularly concerning in light of the current political climate, the reduction in LA

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No mention of EAL Specialist training to identify EAL pupils with ALN.

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – 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.

To enable accurate individual development plans to be devised for EAL learners with ALN it is of paramount importance that specialist advice from EAL external services is sought after and inputted into the IDPs

I am concerned about lack of EAL expertise amongst staff in mainstream schools. Which could lead to EAL pupils with ALN being disadvantaged and their needs not being addressed.

Respondent Details

Information

Name

Sian Shepherdson

Organisation (if applicable)

Llangynidr C.P. School

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Not able to follow easily. Complicated explanations.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Too much information

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Not easy to find the information quickly.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

This book will never be used properly, as it is too long.
No-one could ever be familiar with all the information
in the document.

Need a definition of 'should'.

Legally it empowers parents and pupils without

their own understanding of what could constitute ALN.

Could open it up to time wasters which will waste a lot
of manpower and school resources.

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Schools will suffer a financial detriment, less children will be identified by the school, more parents will be requesting ALN, teachers will be put off from taking on the ALNko role.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – 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.

Respondent Details

Information

Name

Respondent requested anonymity

Organisation (if applicable)

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsTimescales**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsStructure of the draft ALN Code**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

An assessment should be made of the exposure the child or young person has had in the past to each of the languages they speak.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

11.17 increased participation of children and parents will require EAL Specialist support i.e. translation person centred practice EAL professionals ARE NOT HIGHLIGHTED IN THE POLICY TO PROVIDE SCHOOLS ADVICE, ASSESSMENT, TRANSLATION AND INTERVENTION.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Paragraphs 7.24-7.27 clearly indicate the specialist nature of identifying ALN for pupils with EAL/WAL. Ensuring effective communication with EAL/WAL pupils and parents also requires specialist knowledge and expertise. In particular paragraph 7.27 states:

7.27 - An assessment should be made of the exposure the child or young person has had in the past to each of the languages they speak, the use they make of the languages currently and their proficiency in them. Information about language skills obtained in this way will form the basis of all further work with them, both in assisting to understand their needs and in planning any additional language support required.

- However, there is no available guidance for ALNCO's or other professionals which would support practitioners in the identification and/or ALP required for this group of vulnerable learners. Nor is there clear guidance within the code regarding the use of translation or interpretation services for pupils and parents whose first language is neither English nor Welsh.
- We have considerable concerns that this group of learners has been omitted from all of the relevant guidance and legislative documents, including the guidance for ALNCO's.

Current practice in most schools in North Wales usually means that the ALNCO has responsibility for EAL pupils, and for ensuring that any ALN is identified and ALP is effectively put into place. If this duty is omitted from all documentation, the specific needs of this vulnerable group of learners need not be considered as part of the future role. This is particularly concerning in light of the current political climate, the reduction in LA

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

EAL External services should be highlighted to provide guidance and professional advice. It will ensure collaboration if EAL specialist services are mentioned in ALN matters regarding EAL pupils. There are a growing number on our registers of EAL pupils with ALN.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No mention of EAL service *Support*

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Paragraphs 7.24-7.27 clearly indicate the specialist nature of identifying ALN for pupils with EAL/WAL. Ensuring effective communication with EAL/WAL pupils and

parents also requires specialist knowledge and expertise. In particular paragraph 7.27 states:

7.27 - An assessment should be made of the exposure the child or young person has had in the past to each of the languages they speak, the use they make of the languages currently and their proficiency in them. Information about language skills obtained in this way will form the basis of all further work with them, both in assisting to understand their needs and in planning any additional language support required.

- However, there is no available guidance for ALNCO's or other professionals which would support practitioners in the identification and/or ALP required for this group of vulnerable learners. Nor is there clear guidance within the code regarding the use of translation or interpretation services for pupils and parents whose first language is neither English nor Welsh.
- We have considerable concerns that this group of learners has been omitted from all of the relevant guidance and legislative documents, including the guidance for ALNCO's.

Current practice in most schools in North Wales usually means that the ALNCO has responsibility for EAL pupils, and for ensuring that any ALN is identified and ALP is effectively put into place. If this duty is omitted from all documentation, the specific needs of this vulnerable group of learners need not be considered as part of the future role. This is particularly concerning in light of the current political climate, the reduction in LA

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Parents of EAL pupils require EAL service support unmentioned

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

- Paragraphs 7.24-7.27 clearly indicate the specialist nature of identifying ALN for pupils with EAL/WAL. Ensuring effective communication with EAL/WAL pupils and parents also requires specialist knowledge and expertise. In particular paragraph 7.27 states:

7.27 - An assessment should be made of the exposure the child or young person has had in the past to each of the languages they speak, the use they make of the languages currently and their proficiency in them. Information about language skills obtained in this way will form the basis of all further work with them, both in assisting to understand their needs and in planning any additional language support required.

- However, there is no available guidance for ALNCO's or other professionals which would support practitioners in the identification and/or ALP required for this group of vulnerable learners. Nor is there clear guidance within the code regarding the use of translation or interpretation services for pupils and parents whose first language is neither English nor Welsh.

- We have considerable concerns that this group of learners has been omitted from all of the relevant guidance and legislative documents, including the guidance for ALNCO's.

Current practice in most schools in North Wales usually means that the ALNCO has responsibility for EAL pupils, and for ensuring that any ALN is identified and ALP is effectively put into place. If this duty is omitted from all documentation, the specific needs of this vulnerable group of learners need not be considered as part of the future role. This is particularly concerning in light of the current political climate, the reduction in LA

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No mention of EAL Specialist training to identify EAL pupils with ALN.

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – 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.

To enable accurate individual development plans to be devised for EAL learners with ALN it is of paramount importance that specialist advice from EAL external services is sought after and inputted into the IDPs

I am concerned about lack of EAL expertise amongst staff in mainstream schools. Which could lead to EAL pupils with ALN being disadvantaged and their needs not being addressed.

Respondent Details

Information

Name

Anonymous

Organisation (if applicable)

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

d. inclusive education - prefer not 'where feasible' but when appropriate to individual child.

Principle is ok but when shortage of resources children with ALN suffer.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Importance of review for all children is agreed. However practicalities of this with no additional resources queried.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

How will implementation of these arrangements be monitored & meaningful parents feedback gathered?

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Learner Travel Wales Measure 2008 is not fit for purpose.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<i>Mention of joining together Care & Support and IDP not clear, need clearer guidance about 1 plan for child</i>

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

How will IDP maintained by school and IDP taken over by LA be distinguished?

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

How much additional resource is going to be available after the 4 yr. initial amount.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Supporting comments	

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – 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.

Respondent Details

Information

Name

Organisation (if applicable) Carmarthenshire Educational and Child Psychology Service

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes the explanation is clear however the use of should needs to be emphasised – you must undertake the action if you are the relevant person expected to carry out the duties under the Code.

The definitions could usefully be highlighted at the start of every chapter or in footnotes, in case you turn to a particular chapter.

Timescales**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Yes the time-scales are realistic with the emphasis on proof that parties have acted promptly.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

For general exceptions need to prove delays are due to, "circumstances beyond the responsible body's control". We understand there cannot be a list of expectations of all the circumstances that may occur but in particular note an exception relating to closure of education settings during holiday times.

Structure of the draft ALN Code**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes – the structure permits interested stakeholders to be directed to relevant and specific chapters. The repetition enables interested stakeholders to just refer to their chapters.

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments ✓

Not really

Yes however note the following:

Written section by section and the 'flow' and 'overview' is lost. (this is generally for the whole document)

Lacks details regarding processes in some areas.

Clarity of guidance on what to make decisions upon is needed.

Too much ambiguity regarding when LA provides additional provision.

In addition to the ALN Code we would welcome an ALN Code of Practice to include best practice examples/case studies.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes.

- Would nevertheless need to work closely together – with LA representative/s
- Would need guidance regarding equity of provision across provisions i.e. diff PRUs, if more than one in an Authority.

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes the Code creates a legislative framework/process that places learners' views, wishes and aspirations at the heart of planning and focuses on the importance of identifying needs early putting in place timely and effective interventions that are monitored and adapted to deliver an inclusive bi-lingual system. It also assists transition processes across all stages. The principles therefore are the right ones.

Could be strengthened by mention of outcomes and importance of effective intervention.

There is a need to ensure that we have sufficient capacity to deliver the system in Welsh.

We note the strong principle of strategic coordinator roles eg. Early Years ALNLO will have a key role in coordinating the identification of Early ALN in preschool settings and ensure consistency of ALP and transition arrangements as well as coordinator roles of preparing IDP being everyone's business.

Chapter 3 – Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The explanation of the duties include the following elements:

- The participation of CYP/their parents through PCP approaches
- Incorporating pupil's goals and interests
- Styles of communication
- Informing CYP/their parents of the processes
- Allocating a designated coordinator
- Seeking CYPs' consent

These elements outline how CYP/their parents are going to be empowered/supported to participate in the statutory processes and are appropriate.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

General points:

- This Chapter lists the duties (relating to specific articles) and clarifies what LAs and NHS bodies must or should do to discharge their duties.
- Provide a summary of parts of UNCRC (overview on page 40) and UNCRPD mentioned in draft
- Did not read smoothly due to lots of cross referencing and therefore not accessible to all
- What the impact assessment involves – requires clarification
- The word 'discharge' is misleading and should be replaced with 'carry out'.
- Are all schools familiar with the UNCRC? Are all schools rights respecting? Is there an expectation to gain an accreditation?

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes it is appropriate for LAs to map and review ALP on a regular and on-going basis in order to respond to changing needs and demand for ALP – the LA will need to review procedures. It is also realistic to expect the LA to respond appropriately to gaps in provision and work collaboratively with other LAs and partners to address these shortfalls and share good practice models regionally.

- Unclear who in the Local Authority would be recording the ALP review.
- We would want to protect the EP role from gatekeeper of ALP.
- Good focus/consideration for Welsh ALP
- Good focus on looking within school for ALP
- Good that examples of how to monitor provision are given
- Good that it links into wider strategic provision
- Paediatricians need to be accessible - includes relevant suggestions

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes all sections on advice and information – the content, accessibility and publication are appropriate. Sharing of information is clear – written/published online, easily accessible place, should be Welsh and English.

- The word 'discharge' appears – an explanation is required e.g. carry out.
- The phrase reasonable steps should be explained – to include frequently used other languages in the LA.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The ALN Code does not give a clear definition of ALN but rather asks two key questions either of which must be answered in the affirmative to confirm that the individual has a

learning difficulty or disability for the purpose of the act. This process is based on individual interpretations/answers to the questions and may lead to varying definitions of ALN and varying decisions around making ALP.

What is the definition of 'significantly' (7.6)? – How can consistency be established between schools, LAs, and professionals to ensure equality? This is still open to interpretation. What language should be used in defining under 3 ALN 'learning difficulty' vs 'developmental needs/delays'?

7.19 Also includes defining ALN following monitoring of the learner's progress in response to early intervention for some.

7.21 point re: developmental age of learner vs age (chronological) of learner

ALN for EAL/Welsh AL – consideration of definition for EAL Learners and research about BICS vs CALP

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes it gives a general overview/rule of thumb on types of evidence/sources of evidence/how this evidence is collated and considered to reach decisions regarding ALN/ALP. However, when decided YP has ALN it will 'usually be necessary' ??? to prepare an IDP – When is it necessary – when is it not? Who decides?

Under compulsory school age – defined as learning difficulty or disability? What about developmental needs?

7.35 – talks about lack of progress despite teaching approaches targeted but should also reference targeted interventions.

7.37 Assessment through intervention needs to be added to the list.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes the guidance on the role, experience and expertise is clearly articulated, however it should be strengthened by including experience and expertise in EY Education and Child Development. As there is a need to be able to lead and plan strategically the EY ALN LO will require specific management skills it will helpful to add. Is the use of 'should' rather than 'must' appropriate here?

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The structure and content of these Chapters in relation to the duties of the Local Authority, maintained schools and FEI (institutions) for categories of CYP follow a consistent pattern and format. Although this may appear repetitive the reader will only need to refer to the appropriate section at any one time.

In a ALN Code of practice might be useful to include good practice/case studies– to give ALNCO/CTs/SMT what it looks like in “the real world”

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There needs to be

- Greater clarity re triggers/and process if these Chapters are to be read as stand - alone chapters.
- The timescales are tight but realistic – in practice the timescale may have to be amend extended but the principle of timely PCP/creation of IDP is priority. The preparation of an IDP should be overviewed as an on-gong process.
- There will be an impact on timescales when there are peaks of high demand/pressures on resources e.g. due to under resourcing, sickness absence.
- Federated ALNCOs may find it difficult to adhere to timescales when responsible for more than one school.
- FEI – these organisations should comment independently.

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes – but more explicit requirements/data evidence that may be required by LA to make decisions for example the role of CN Panels around joint funding. ALN Code of Practice to cover this?

Must consider the young person's aspirations and how ALP will support. LAs will need to assign the responsibility for coordinating and maintaining an IDP for a young person not at a school or FEI to a Responsible Officer.

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Extra point: Do the 'Person Centred basis' principles need to be outlined here in 13.3 given that they underpin the content of the document.

13.5 I.A.10. Shouldn't this be also included in the mandatory LAC IDP?

Following training schools must understand the mandatory content of IDPs and ongoing training will assure quality.

Contents of IDP

- The structure should be more child focused.
- More emphasis on wellbeing.
- The IDP should replace the PEP for CLA – it should be the same document for all learners.
- It would be useful for the One Page Profile to be included within the IDP for all pupils (including those looked after).

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The elements are appropriate for pupils who have low level/high incidence ALN and require targeted ALP. Section 2a can be expanded for CYP with complex ALN.

We liked the 'Intended Outcome' link to ALP which can be measured – progress tracked.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Section 13.24 – 26 OPP Clarity on the headings in the OPP would be useful. We would expect to see how best to support included in the important for element of the OPP.

We feel will benefit from clarification/guidance on:

- Capacity of the CYP
- Transition reference to 'near future' timeframe
- Transport decision appeal process

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transport, where relevant, must be part of the IDP and must support ALP of learners from 0-25.

Learner Travel Wales Measure to be revised to reflect ALN Code

For IDPs created by the LA queries around transport to specific provision should be discussed with Transport Officers.

Transport

- Should consider the needs of young carers, children of refugee families and children looked children in rural areas who may have significant challenges in relation to gaining access to public transport.
- Access to transport should be considered based on a 'vulnerability' criteria.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

From the LA's point of view as the timescale (6 weeks) for providing information mirrors the existing timescales it seems an appropriate one. However seek health body confirmation that this timescale is practical.

Exceptions noted in 15.7 and 15.8 seem reasonable.

15.10: Why does the request for help/information need to be passed back to the LA?
Unnecessary bureaucracy.

The opportunity to request information from a "relevant person" is good as it permits information to be requested from specific individuals.

Timescales and compliance

- Additional consideration should be given to children looked after, children on CPR and children in need of care and support should be prioritised to minimum school absence and safeguard them.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This is difficult for us to comment on as we don't know the full picture from their perspective i.e. staffing, expertise and Welsh-language provision.

However we are aware that coordination of all Health professionals' information in the current system is often not holistic/effective.

Also that this is more possible where the CYP is already known to the Health professionals especially where they have been involved over time or there is regular multi-agency review.

When they have not been involved previously or in some cases where they have just become involved assessment is carried out over time in response to intervention and they may not be in a position to answer this question within the 6 week timescale, for example Speech and Language Therapy, Specialist CAMHS.

This process may also depend on the quality of supporting information available with the IDP describing the CYP's ALN and the clarity of the Objectives that the ALP aims to meet.

It will be very helpful to have a clear provision map from LHBs with clarity about the objectives of the Service or treatment.

The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This guidance on the DECLO is clear and emphasises the requirements of the role. The DECLO is required to have a specific skill set to carry out these duties.

It's a huge role for one person and we are concerned about the potential issues should this person, for whatever reason, be away from work.

We believe that the 'should' statement should be 'musts' in order to ensure that the role is carried out effectively.

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This Chapter on review and revision of IDP is clear. The flow diagrams are especially helpful.

We feel that there is ambiguity unless there is it is made explicit as to how this is decided.

- How is this resolved in the instance of a dispute?
- Sets out the process which can take up to 35 days but it is still up to the LA to decide on their actual processes.
- Processes will have to be shared with all stakeholders, including children and young people and make a direct link to the code
- There is likely to be ambiguity around what an IDP will contain as it will be person centred led and fit for the individual and their circumstances.
- Whose role will it be to provide quality control around IDPs?
- There is a need to ensure staff feel confident and competent in being able to review and revise IDPs without calling on 'specialist advice'.
- How will a child/young person trigger a review?

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Yes the proposed period is appropriate and hopefully realistic.

Health/Education

- Working to different systems which aren't always compatible
- Consider the volume of reviews

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The content and structure of Chapter 17 is mostly clear

However, 17.11 begs the questions that if a local authority prepares an IDP for a child or young person in the area of a local authority in England and if not allowed to describe other

provision (i.e. a place at a particular school or other institution or board or lodging) in it and the child or young person requires such provision who can do this? Would this be grounds to ask the Local Authority in England to consider an EHC assessment? What would happen if the LA in England refuses to do so?

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes – the proposed period is appropriate as exceptions are permitted.

The timescale of 7 weeks is too short on several counts:

- 1) LA consideration of a request to revise on IDP follows parental or child/young person dissatisfaction and likely disagreement resolution and the LA's decision can be appealed and therefore the LA is likely to want, in a number of cases, to have enough time to secure and consider additional advice which may not have already been available therefore the process is more akin to the 12 week timescales process of a LA producing an IDP, if it is to be done thoroughly as a person centred process.
- 2) The 7 week timescale is not realistic if it falls just before or during the Summer holiday period of 6 weeks.

It is good to see in 17.25 that where a school or FEI are considering asking a LA to take over responsibility for maintaining an IDP that they 'should', i.e. it is expected as good practice, consider consulting an EP to see whether this is appropriate as the EP is able to provide objective child/young person centred advice on how the school or FEI could meet needs inclusively. However, should this be an expectation and therefore a 'must' to seek to avoid this request being made of the LA without this evidence being available? If this was the case this would enable a possible shorter timescale to be met by the LA in making a robust decision.

Also, we would not advocate use of language in 17.25 that could be interpreted as the EP having a gatekeeper role. It should be the LA who has this role and the EP role should be to provide expert consultation to support education settings to meet identified ALN inclusively. A further concern is raised by 17.22 where education settings may vary in 'the ALP that they might reasonably be expected to provide/secure'.

The ALN CoP has as its vision that ALN should be met in mainstream as far as is possible. This depends on the level of protected funding that is made available to do so and the specialist training, advice and support. The LA should therefore only need to maintain the IDPs of a very small percentage of those with ALN where specialist education is required or the level of provision in mainstream is exceptionally high and needs to be additionally funded by the LA centred funding. Clear LA expectations re ALP that we would expect to be available in inclusive mainstream educational settings needs to be set out in 'local offers' if this system is to provide equity across Wales. This will support the process that Chapter 17 refers to.

Without these frameworks and processes in place there is a real concern that the LA may be overwhelmed with such requests and indeed that Appeals to the Tribunal will increase significantly unless the LA is willing to take over a significant number of IDPs.

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	✓	No	□	Not sure	□
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Supporting comments

- Helpful to outline principles of meeting and the flexibility to meet individual circumstances in each meeting e.g. timing and numbers present, "Needs led!"
- It is clear that child is at the centre
- Coordinator - indicates most appropriate to run meeting (i.e. not necessarily ALNCO!!!)
- In general – seem methodology has clear cross reference to WG documents re Person Centred Practices
- Attendees etc (18.7) clear
- 18.11 provides a good solution if professionals are not able to attend
- If professionals are not in attendance then it does need to be explicitly written that they can't be signed up to action by others, unless there is a prior agreement, and that it is good practice that the Coordinator or someone else present in the meeting agrees to contact them as an action
- 18.14 Welsh requirements need clarification e.g. make explicit implications of organising translation, cost and possible delay in organising this additional service for meetings when this is required to provide everyone with full access and participation in the meeting.
- 18.15 is clear but should it be stated/written in record that there is a difference in opinion with the implication that this may lead to mediation/LA resolution process etc.
- 18.18 and 18.34 Should the definition of Coordinator role and where it is stated be referred to here (as there is an expectation that chapters can be read as stand alone)? Should it state that the Coordinator could be a range of professionals/contributors?
- 18.22 "should" better than "must" as it is about good practice and pertinent to transitions e.g. FP to KS1 etc.
- 18.28 the term "impact monitoring" would be usefully clarified.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	✓	No	□	Not sure	□
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Supporting comments

As transition across stages is key the Code needs to make clear who is the person responsible for coordinating transition at each stage. The LAs' schools have effective transition pathways across all phases and person centred practices involving parents ensures effective transition.

This chapter includes more practical guidance re transition process than other chapters do and this level of information would be welcomed in other chapters to support best and consistent practice across Wales. When LAs are responsible for holding the IDP they are also responsible for the transition overview including EY transition into school.

N.B. 19.16 missed transition from KS2 to KS3 out (Yr 6-7)

We like that there is a need to plan multiagency sometimes two years in advance and hold IDP planning Review meetings annually when transition planning needs to be considered and informed by Person Centred practice.

Timing should allow ALP to be put in place in a new setting prior to them attending.

19.60 We will need more information re when an independent special post 16 institution should be considered and the process for this.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

20.1 Use of 'normally transfer' begs the question of clarifying the exceptions. Are the only exceptions outlined in 20.23?

20.12 'Where the LA believes that it would be reasonable for the FEI to secure the ALP set out in the IDP' – it would be helpful to clarify what factors would need to be considered in arriving at this decision, i.e. what ALP is reasonable for the FEI to secure i.e. What ALP is reasonable for the FEI to secure.

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

20.12 'Where the LA believes that it would be reasonable for the FEI to secure the ALP set out in the IDP' – it would be helpful to clarify what factors would need to be considered in arriving at this decision, i.e. what ALP is reasonable for the FEI to secure. Clarification of ALP that could not be delivered in a FEI?

Welsh Ministers decision if FEI do not agree to LA request – what is the reason for this process? Is it an arbitration mechanism?

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes this is clear and reasonable.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

21.8 Not sure why use governing body here rather than school/setting?

21.10 We would welcome clarification on 'reasonable needs for education and training'.

21.14 Would you also inform the Social Worker of a LAC as they have parental responsibility?

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This section is confusing. The timeframe for reconsideration for LAs is tight. Does this section need to include the LAs timescale for reconsideration and clarification that only following this reconsideration process can an appeal to Tribunal be initiated. We have already noted that we would like the LAs timescale reconsideration to be 12 weeks rather than 7 weeks to allow for robust gathering of information as this decision could lead to a Tribunal appeal. Do not understand the timeframe for appealing to the Tribunal.

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The structure is clear however rather than referring back to Chapter 12 as stated in 22.16 it would aid clarity to repeat this information in Chapter 22.

We would think that a detained child/young person as defined in 22.2 a) and b) would benefit from ALP being made if they have ALN (and no prior IDP) whilst detained in youth accommodation or hospital not just on release. However, we note if they have an IDP on being detained this must be sent to the Youth Accommodation

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes - see above.

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

22.54 Currently for a child/young person with a Care and Treatment Plan and a statement of SEN it is the Local Authority's statutory duty to provide a Coordinator and likewise if they are Looked After rather than the Health Authority. Will this change in light of this Code's provision? Educational Psychologists fulfil the role of the Care and Treatment Plan Coordinator in Carmarthenshire for those with statements of sen.

Question 39 – Are the timescale requirements to act "promptly" in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

23.3 and 23.4 It would be helpful to summarise relevant duties rather than refer to Ch.s 9 and 10 if the intention is that the chapter can be read as stand alone for this group of children and young people.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We are pleased to see that this is a mandatory role and may be more than one designated ALNCo in a setting if required mentioned and that in some circumstances it may be appropriate to share an ALNCo.

The information continues to reflect the range of settings factors that may influence how the role will work but protects key elements such as registered teacher, member of or clear communication link with SMT as a strategic planning role, the LA role to support the ALNCo.

This is a significant role and we wonder if a minimum of teaching years' experience should be made explicit.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Same as Question 42. See above.

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It would be helpful to outline what Part 2 of section 84 of the Act refers to.

26.10 How does the Tribunal assess whether a child has capacity or not?

26.11 We note that this list is not exhaustive but a significant omission is the time scale in which the appeal should take place and the decision reported. In the interest of CYP we feel that a timeframe should be specified.

26.14/15 Does the eight week timescale in which parents/cyp can submit an appeal and the supporting case statement give an unfair advantage over the LA or FEI who only have 4 weeks to submit a case statement? Should this also be eight weeks?

26.16 (a) Should the time to comply with Tribunal orders be longer eg 12 weeks equivalent to the timescale for issuing a first LA IDP?

26.22 (d) Clarification on what the interests of justice would mean.

26.25 Should this not also apply to the LA and FEI?

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is good to see reference to how those who may lack capacity are still required to participate however they can.

We are not sure why this only refers to child and not young person.

27.5 Although this defines what it means for a child to lack capacity in relation to the Act it would be helpful to have more examples to support consistency in those making this assessment.

27.6 Describes who can decide if a child lacks capacity but does not state how this decision is made i.e. what information is considered and who provides the information.

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

9.44 Do not agree that the circumstances of a school could affect the school's view on whether it can secure ALP – all schools to meet local need inclusively. An inclusive local authority is likely to provide to schools/setting a level of resource/support/equipment which should allow them to secure the ALP in mainstream.

15.36 This section is weak with regards to the LHB. The Tribunal should not direct a Local Authority to provide what health will not deliver.

We had expected more guidance but understand now from attending the ALN Consultation workshops that this is a legal Code for the ALNET Wales Act and not a Code of Practice and that this may be forthcoming in the future and good practice examples will be welcomed to support consistent good inclusive practice across Wales.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes but the ALNCo should have a prescribed number of years' teaching experience – at least two.
Missed opportunity to prescribe mandatory on-going CPD related to ALN.

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- No objection to LACE Role but there will be a need to ensure that the processes the LACE follows is the same as those IDPs coordinated by the school or LA.
- ALN (for LAC) should be everybody's business.

PART 4: children tell us that they wish to be referred to as Children Looked After (CLA) or Care Experienced Young People NOT LOOKED AFTER CHILDREN (LAC) and documentation should be altered accordingly.

4:12 the role of the LACE in multiagency coordination for ALN places an additional time expectation that may not be wholly achievable depending on geography of LA and number of CLA.

Question 57: yes the LACE coordinator should be a statutory role and a consistent role across Wales.

- Welsh Government Guidance of minimum expectations of the LACE Coordinator role should acknowledge the 'specialist nature' of the LACE Coordinator's role in understanding and linking Corporate Parent and Education Department knowledge of responsibilities.
- LACE Coordinators may require National training in line with their role and this should include trauma informed practice. Possibly the level 5 Diploma in Trauma Informed Practice.
- In some LAs this role may require one member of staff, while in others it may require a specialist team in order to compete all duties.
- Consideration should be given to the position of the LACE coordinator and their relationship to Corporate Parenting Panels to strengthen their ability to influence senior managers/leaders.
- The LACE Coordinator role is that of overseeing and not the doing/writing of IDPs. It is to hold LAs to account if children are placed out of authority without first ensuring their ALN can be met (ratified also by Huw Davies).

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes as it includes the PEP.

- Unclear why there is a difference in language options
- Unclear why no transition box

- Unclear why personal details come at end

The pep should be replaced by an IDP.

- CLA should not have a different process and if the IDP is truly person centred it should comply with all functions of the current PEP.
- Do not agree that there should be a separate standard form for looked after pupils. Promote equality and fear that a different form would further stigmatise pupil's looked after and be discriminatory. It will be more straight forward for all (children, carers, parents and staff) if the IDP is one document for all. It will be easier for ALNCoS in school to have one document for all pupils.
- School staff should complete the IDP for LAC and it should be trauma informed.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- The IDP should specify who is responsible for actions.
- It should be both the Social Worker (who has PR) and the IRO who contribute to the IDP.

Needs strengthening to describe and clarify the need (must) for LAs to plan for education needs to be met, prior to placement or immediately after, if child is placed in an emergency.

- 110 – needs clarification as to which LA has responsibility.
- 140 – reinforce careful consideration prior to placement.
- 227/228 - IDP should be given to any receiving school.
- 233 point 4 – IDP must be given to carer.

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- One plan is much better as it doesn't separate out LAC from non-LAC (which is preference of LAC)

Yes – the IDP safeguards the ALN of those looked after.

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Yes

Part 6 has the opportunity to redefine the role of the LACE Coordinator to provide greater consistency of the role across Wales.

- **It should acknowledge the ‘specialist nature’ of the LACE Coordinator’s role in understanding and linking Corporate Parent and Education Department knowledge of responsibilities.**
- **Need to ensure that the role is not stretched to far by the increasing demands of the ALNET together with the LACPDG responsibilities.**
- **In some LAs this role may require one member of staff, while in others it may require a specialist team in order to compete all duties.**

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Earlier identification of ALN.

Less standard prescription of ALP and more personalised person centred planning and objectives which change more frequently.

Greater integrated planned action to meet objectives and a more holistic approach.

Professionals in more planning meetings shaping effective interventions.

Local ALP mapped out as a local offer. Joined up planning re this.

Single point of information re provision and process to identify and meet ALN which is accessible to all and kept up to date and impactful.

Person Centred processes and conversations happening when needed.

Greater right to appeal for CYP and parents. Increased activity in advocacy, disagreement resolution, Tribunals.

Greater access to local ALP across educational phases.

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Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Q63 – undoubtedly will have a positive impact, increasing the functionality of the language across all areas. When considering that person centred practice is at the heart of the transformation, CYP should have the choice with regards to the language in which they would like the process undertaken to ensure that the best is gleaned from it as long as understanding is evident. There are currently families who prefer to communicate through the Welsh language and allowing this would give a personal, relaxed approach whilst knocking down a barrier. My hope is that Welsh language support/input/provision is available across all relevant professional bodies i.e. health to ensure clarity and consistency whilst following the CYP wishes.

The proposals support the use of the Welsh language and requires consideration of what ALP should be provided through the medium of Welsh for every learner with ALN which should strengthen Welsh ALN provision.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Whilst the workforce is unlikely to be fully bilingual there is a need for translation services to be readily available to ensure everyone can use Welsh and English as they would prefer to do so in IDP Planning and Review meetings and in written communications.

There is a need to provide realistic, regular and frequent Welsh Language Learning opportunities for the workforce built into working time.

There is a need to plan for and increase the level of bilingual provision beyond schools into FE and specialist provision Post 16.

This provision will require additional resourcing.

Within ALN and various school organisation to delivering bilingual Welsh-English education there can be tensions at times and misrepresentations. There is a need for a clear message that bilingual education should be inclusive for all learners and not dependent on their home language/s the balance of teaching language medium provided by different schools and the nature of learners ALN. Schools need to make appropriate provision in both language mediums, differentiation and adjustments to provide access to learning and support progress being made.

For example, where teaching to support progress is not made in a learner's more developed language whether this be Welsh or English; Where a learner attends a specialist unit for a period of time and the balance of teaching and learning does not reflect their home school's delivery of bilingual education thereby disadvantaging the learner on return to their home school; where the expectation to develop both languages is not equitable.

There can be pressure to disapply some learners with ALN from Welsh particularly to free up teaching time to strengthen literacy in English rather than adjust the intensity and nature of a literacy catch up intervention for a period and provide support strategies alongside adjusting the balance of curriculum delivery.

Question 65 – 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.

All professionals welcome the focus on roles and responsibilities but think that this could usefully be mapped out for all.

All professionals concerned are that there needs to be clarification re terms used such as 'advice', 'consult', 'consultation', 'assessment' as they can be interpreted in different ways by different stakeholders and will determine processes which will need to be further considered to design systems to achieve the ALN Transformation.

All professionals would like to see mention of the LA role and responsibility in making the ALN Code of Practice user friendly for all stakeholders.

All professionals would welcome greater clarity supporting a common definition interpretation of 'significant difficulty in learning'. We are concerned that the staged approach to determining an ALN is not made explicit in this Code.

It would be helpful to clarify responsibilities for funding ALN processes and ALP across providers including shared, pooled budgets if required.

LA Officers believe that there is a clear need to map out a LA - FE - LHB ALP offer to ensure that there is a framework that can underpin all decision making in a fair, open and transparent process and allow regular systematic review and improvement where required.

EP Service

EPs are concerned that the EP's role and responsibility is not seen as gatekeeper which is part of the educational settings, Local Authorities ALN section and Local Health Boards role and responsibility.

EPs are concerned that the EP's role and responsibility includes supporting educational settings and the Local Authority with holistic identification of ALN and effective intervention to meet ALN inclusively, working in collaboration with others supporting the cyp. EPs would see a strategic role for the EP in building capacity within the system to do this which is both seen as both prevention and intervention.

EPs note that the EP role is valued, key at all phases and mandatory. EPs wonder if there is an intention to widen the involvement of EPs at preschool/under 5 (i.e compulsory school age) as 'must' is used for all children with and who may have ALN. Currently EPs are not resourced at a level to become involved with all of these children and therefore prioritise those where there are significant barriers to making progress despite interventions that are likely to prevent barriers to accessing teaching and learning in a mainstream setting. EPs are awaiting more guidance re post 16 specialist provision assessments and anticipate that this will impact on EP activity which has been very limited in this area to date. There will need to be CPD and systems developments post 16 FE and specialist college provision.

EPs note that the EP role is valued, key at all phases and mandatory. EPs wonder if there is an intention to widen the involvement of EPs at preschool/under 5 (i.e compulsory school age) as 'must' is used for all children with and who may have ALN. Currently EPs are not resourced at a level to become involved with all of these children and therefore prioritise those where there are significant barriers to making progress despite interventions that are likely to prevent barriers to accessing teaching and learning in a mainstream setting.

Respondent Details

Information

Name Meilyr Rowlands

Organisation (if applicable) Her Majesty's Chief Inspector of Education and Training in Wales (Estyn)

INTRODUCTION

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 has overhauled the education system of support available to children and young people in Wales with an additional learning need or a learning disability. Among other substantial changes, the reforms extend the entitlement of support to children and young people aged 0 – 25 years old, removes the competitive nature of the previous statementing system and extends the right to independent advocacy.

Creating a new Additional Learning Needs Code (ALN) in light of whole-system change has been a significant undertaking. Estyn welcomes Welsh Government's efforts to publish a draft Code and is pleased to provide this consultation response.

In the main, the draft ALN Code clearly sets out the rights of service-users and the expectations, roles and duties placed on governing bodies, local authorities, health bodies and other relevant organisations. In particular, Estyn welcomes the:

- explicit emphasis placed the over-arching principles underpinning this policy change
- explicit and strong emphasis given to furthering the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)
- general framework for identifying ALN and deciding additional learning provision (ALP) set out in Chapter 7
- guidance issued to health bodies
- strategic focus placed on new Additional Learning Needs Coordinator (ALNCO) roles.

Estyn recognises the draft Code will change in response to this consultation and other stakeholder engagement exercises. With this in mind, the Welsh Government's re-drafting exercise could improve the Code by:

- Reducing the overly legalistic language in the Code and ensure that it talks practically to education professionals at the chalk-face
- Ensuring the over-arching framework contained in Chapter 7 reads consistently across to Chapters 8 – 12
- Ensuring that the relevant IDP are clearly presented by flowcharts at the beginning of the appropriate chapters
- Clarify the expectations, responsibilities and scope of the Early Years Additional Learning Need Lead Officer roles and ensure that appropriate links are made with the new curriculum
- Clarify local authority responsibilities for looked after children and children and young people in receipt of elective home education.

CONSULTATION QUESTIONS

CHAPTER 1 - INTRODUCTION

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1: Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Explanations of the different terms listed above are clear and appropriate.

Timescales

Question 2: Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The requirement for responsible bodies to take prompt action, rather than waiting to implement something towards the end of a particular timeframe supports acting in the best interests of children and young people and clearly prioritises early intervention. The general approach set out in this section is appropriate. The final code would benefit from clear timelines and flowcharts outlining the maximum time period a requirement must be met.

Question 3: Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The timescale exception where an action cannot be taken promptly within a fixed time period due to "circumstances beyond the responsible body's control" is reasonable and appropriate.

Structure of the draft ALN Code

Question 4: Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The general structure of the draft Code is appropriate. Estyn welcomes the overarching approach set out in Chapter 7. It provides an overall framework of principles that apply across all stages of education. While Estyn acknowledges the challenge of balancing comprehensive detail with user-friendliness, the presentation of Chapter 7 could be improved. There is also a need for greater read-across between Chapter 7 and Chapters 8 – 12 to ensure that the overarching approach is not lost between the different stages of education.

In terms of the Welsh version of the draft Code, much of the language used throughout is formalised and not user-friendly. Improvements could be made to support the overall accessibility of the Welsh version and ensure it talks directly to education practitioners in an appropriate manner.

Question 5: Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Estyn supports the Welsh Government's efforts to ensure the draft Code appropriately reflects the full range of provisions required by the ALN Act. However, much of the language used throughout several chapters of the draft Code is overly legalistic. This makes it difficult for the reader to understand fully how these requirements can be met in practice.

The Code's primary target audiences are those responsible for the strategic coordination and practical delivery of the new ALN system. The Code should read like a practice manual rather than a piece of legislation. It should set out clearly the practical steps professionals will need to take to deliver the intended aims of the new additional learning needs system in Wales.

Although the draft Code provides narrative on the maximum timescales to develop an Individual Development Plan (IDP), its presentation in-text makes it difficult to understand. The Code would be of greater benefit to all stakeholders if the information was provided by clearer timelines and flowcharts outlining the maximum period by when the responsible bodies are expected to:

- identify whether a child or young person has an additional learning need
- notify the child, young person and/or parent of their decision
- determine the appropriate additional learning provision
- prepare the IDP
- provide a copy of the IDP to the child, young person and/or parent.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6: Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The current regulatory framework places an overall responsibility on local authorities to co-ordinate Special Educational Needs provisions for learners attending Pupil Referral Units (PRUs). Therefore, the proposals for PRU Management Committees to take greater responsibility of ALN provision will require regulatory change.

PRUs are, in the main, short-stay centres for pupils who are educated other than at maintained or special schools. They admit pupils with behavioural difficulties and others who are vulnerable because of their health or social and emotional difficulties. Most pupils (90.64%) attending PRUs have an additional learning need and are already receiving support from their school or local authority¹.

A child may be dual registered at a school and a PRU. The proposal that in these cases the local authority would maintain the IDP is appropriate. Changes to PRU Management Committees' responsibilities for ALN should be reasonable and proportionate to reflect the short-term nature of PRU placements. It is more appropriate for Management Committees to take greater responsibility for the coordination of ALN support for children solely registered at a PRU. However, if the degree of responsibility will expect Management Committees to secure additional learning provision then the new regulations may need to require local authorities to delegate budgets to PRU Management Committees to enable this.

Over the course of our 2019-20 thematic work programme, Estyn will be reviewing the effectiveness of PRU Management Committees. We would welcome any proposed changes to take account of our findings once they become available.

CHAPTER 2 - PRINCIPLES OF THE CODE

Question 7: Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Estyn welcomes the principles set out in Chapter 2 of the draft ALN Code. These provide a useful frame of reference that will help responsible bodies to coordinate a more holistic and inclusive support system for children and young people with additional learning needs.

Estyn welcomes the importance given to securing learner and parental involvement in decision-making within the principle of a rights-based approach. However, participation in

¹ Analysis performed by Estyn based Welsh Government (PLASC) data for 2018 (unpublished).

decisions only forms part of the rights-based approach set out by the UNCRC and UNCRPD, which relevant bodies now have duties to pay due regard to. Therefore, the draft Code would benefit from broadening its narrative to include the General Principles of both international Conventions. For example, Article 3 of the UNCRPD and Articles 2, 3, 6 and 12 of the UNCRC. Highlighting these general principles within the draft Code's rights-based approach will help all relevant bodies to meet their new due regard duty and ensure that the overall support system is guided by intentions to respect and preserve the dignity and best interests of learners with additional learning needs.

CHAPTER 3 - INVOLVING AND SUPPORTING CHILDREN, THEIR PARENTS AND YOUNG PEOPLE

Question 8: Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Estyn welcomes the importance given to securing learner and parental involvement in decision-making. This is a core component of the rights-based approach described in the section above. The chapter provides practical guidance and links to how responsible bodies can discharge their duties and implement person-centred practice. It is unclear what impact this requirement will have in relation to capacity of providers to administer this process.

CHAPTER 4 - DUTIES ON LOCAL AUTHORITIES AND NHS BODIES TO HAVE REGARD TO THE UNCRC AND THE UNCRPD

Question 9: Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This chapter provides some useful information about where relevant bodies (local authorities and health bodies) may discharge their duties to pay due regard to the UNCRC and the UNCRPD. The draft Code would benefit from more explicitly setting out *how* this duty can be met. For example, case law² informed the development of the Equality Act 2010 and set out six principles that test how due regard should be paid in relation to general equality issues:

- **Knowledge:** those who exercise its functions (its staff and leadership) should be aware of the duty's requirements. Meeting the duty involves '*a conscious approach and state of mind*'. Decision makers should therefore be aware of the implications of the duty when making decisions about their policies and practices.

² R (Brown) v Secretary of State for Work and Pensions [2008] EWHC 3158 (Admin)

- **Timeliness:** due regard must be paid before and at the time that a particular decision is being considered, not later. Attempts to justify a decision as being consistent with the exercise of the duty when it was not, in fact, considered before the decision, are not sufficient to discharge the duty. The duty arises before and at the time that a particular policy is under consideration and a decision is taken. A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- **Analysis must be rigorous:** the duty must be exercised with rigour and with an open mind – it is not a question of just ticking boxes. There must be substantial sifting of relevant facts and research, and fair attention to conflicting views. There must be meaningful consultation and engagement with interested parties.
- **Non-delegation:** The duty to have due regard cannot be delegated. The duty rests with the public authority even if they have delegated any functions to another organisation.
- **Continuing duty:** the duty is a continuing one. It cannot be exercised once and for all, but must continually be revisited and borne in mind.
- **Record keeping:** transparency about how decisions are reached. This involves recording the evidence used and publishing records of equality considerations with the relevant policy / proposal. It is useful to carry out this process when developing new policies as well as in the review of old policies.

Local authorities and health bodies are, of course, already used to working towards these principles when exercising their duties under the Equality Act 2010. Including the same or similar provisions within the draft Code would support the named relevant bodies to pay due regard to the UNCRC and UNCRPD in a meaningful and appropriate manner. This, in turn, may support the relevant body to avoid Tribunal proceedings should a challenge into their strategic decision-making arise.

CHAPTER 5 - DUTY TO KEEP ADDITIONAL LEARNING PROVISION (ALP) UNDER REVIEW

Question 10: Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Guidance in this section is clear and appropriate.

CHAPTER 6 - ADVICE AND INFORMATION

Question 11: Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Guidance in this section is clear and appropriate.

CHAPTER 7 - THE DEFINITION OF ALN AND ALP, IDENTIFYING ALN AND DECIDING UPON THE ALP REQUIRED

Question 12: Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The draft guidance provides useful explanations of the terms ‘Additional Learning Needs’ and ‘Additional Learning Provision’. It also provides some useful narrative about the factors that responsible bodies will need to consider when determining whether a learner may have an additional learning need. However, these considerations can be read without a practice context and in isolation to the procedural requirements placed on governing bodies and other relevant bodies by the rest of the Code. Therefore, greater read-across between Chapter 7 and Chapters 8 to 12 is needed.

Question 13: Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In general, Estyn welcomes Chapter 7. It provides a useful overarching guidance for all responsible bodies to identify ALN and decide the required ALP. While Estyn recognises the difficulties of balancing detail with user-friendliness, how well the guidance speaks to education practitioners could be given further consideration. This might help to improve the flow and overall accessibility of this chapter. Additionally, the draft Code could do more to provide consistent read across between Chapter 7 and Chapters 8 – 12. Greater emphasis could be given to the requirement for Chapter 7 to read in conjunction with the stage-based chapters.

In terms of feedback on specific paragraphs:

- 7.13 – When identifying ALN for children under compulsory school age, Estyn would prefer that this paragraph refers to a ‘different assessment’ rather than ‘different test’. The latter implies a position of pass or fail whereas the former suggests a broader consideration of holistic needs.
- 7.34, 7.35 and 7.37 – These, in particular, provide useful general guidance as to the sources of evidence which might suggest the presence of ALN. They provide a helpful broad framework for practitioners to work within. The type of evidence referenced is clear and incorporates a suitable wide range of sources – but it is not (helpfully) comprehensive. The advantage of this approach, of course, is that the Code does not set out to provide a prescriptive list which then becomes proscriptive over time. However, it might be helpful if this approach was emphasised more clearly than it currently is.

CHAPTERS 8 TO 12 – DUTIES ON SCHOOLS, FEIS AND LOCAL AUTHORITIES

Early Years ALN Lead Officer

Question 14: Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Estyn welcomes the new requirement for local authorities to appoint an Early Years' Additional Learning Needs Lead Officer. This appointment will play a vital role in supporting the strategic coordination of additional learning support for children under compulsory school age, including supporting liaison between health bodies and other partners. However, we are concerned about the significant scope of the role. Given that the duties for children attending non-maintained settings will rest with the local authority, it is likely that both the strategic and operational responsibilities will fall to this role. Estyn would welcome clarification in the Code about how this role should be supported at an operational level.

In terms of experience and expertise, we would welcome Welsh Government giving consideration to requiring for ALNLOs to have Qualified Teacher Status (QTS) and for them to be able to demonstrate school leadership experience, particularly in primary schools. It is essential that ALNLOs will have the skills, knowledge and experience of the Foundation Phase pedagogy and principles (and that of the new curriculum) in order to promote standards and ensure a smooth transition as a child moves from a non-maintained setting into a primary school.

Duties on schools, FEIs and local authorities

Question 15: Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- **Language and accessibility**

Much of the language used throughout Chapters 8 to 12 is overly legalistic. This makes it difficult for practitioners to understand the requirements placed on them by the new additional learning needs system. Variability in teacher knowledge and understanding of the new system was one of the main findings of Estyn's *Readiness for additional learning needs reforms* report.

Ensuring that the Code of Practice speaks to those 'at the chalk-face' in a clear and accessible way will be key to ensuring the reforms achieve the best outcomes for learners. Meeting the additional learning needs of children and young people should be recognised as the responsibility of the whole institution, not just the ALNCO. The Code needs to enthuse

and empower all education practitioners to meet the requirements of the new system. It needs to resonate with them by clearly outlining what the changes mean to their practice.

- **Raising the possibility of ALN**

Clarity is needed about **how** the possibility of a child having an additional learning need can be brought to the attention of a relevant body. The Code could provide practical examples of what this might look like in practice and set out how the possibility of ALN should be recorded.

- **Chapter 11 – Duties on local authorities in relation children of compulsory school age not attending a maintained school**

In the main, the guidance is appropriate and clear. However, with regard to children in receipt of elective home education, the Code would benefit from explicitly describing duties placed on parents to secure suitable education for their child. Specifically, Section 7 of the Education Act 1996 requires parents to secure efficient full-time education suitable to their child's age, aptitude, ability and any special educational needs they may have. In addition, the Code should explicitly set out the responsibilities of local authorities and their powers to intervene where they deem that a child in receipt of elective home education may not be receiving a suitable education that is appropriate to their needs.

Question 16: **Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?**

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Although the draft Code provides narrative on the maximum timescales to develop an IDP throughout Chapters 8 to 12, its presentation in-text makes it difficult to understand. The Code would be of greater benefit to all stakeholders if maximum timescale requirements were also communicated through clear timelines and flowcharts at the beginning of each chapter.

In general, Estyn supports the duty to act promptly and to reduce the overall timescales for responsible bodies to decide whether a child has ALN and to prepare and finalise an IDP. This seems achievable for school/FEI IDPs. However, where complex additional learning needs may be identified, we are concerned about the reduced timescale (from 26 weeks to 12 weeks) for local authorities to assess referrals, work in partnership with other agencies, decide whether a child has ALN, secure provision and finalise an IDP. The reduced timescales are likely to place significant additional pressures on all agencies, in particular local authorities. The roll-out of and the requirement that the person-centred planning model is in keeping with the aim of increasing learner participation in the process. It remains unclear what impact this requirement will have in relation to capacity of providers to administer this process.

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17: Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The proposals and guidance are clear and appropriate.

CHAPTER 13 - CONTENT OF AN IDP

Question 18: Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Estyn welcomes the mandatory elements of the IDP, particularly requirements to ensure that the additional learning provision described is detailed, specific and quantifiable. The guidance in this chapter is clear and appropriate.

Question 19: Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In the main, the mandatory standard form is appropriately designed. Part 2 could be improved upon if it directed the description of ALP to be specific, detailed and quantifiable – setting out the specific success criteria for each intended outcome would be helpful in developing more effective target setting.

Estyn welcomes the Welsh language requirements built into the IDP template. However, further detail is needed throughout Chapters 8 – 12 to help clarify the grounds of justification for Welsh-medium provision.

Question 20: Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance is clear and appropriate.

Transport

Question 21: Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance is clear and appropriate.

CHAPTER 15 – DUTIES ON HEALTH BODIES AND OTHER RELEVANT PERSONS

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22: Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In general, the proposed guidance and timescales seem appropriate. We would welcome further clarity on exempting NHS bodies from the requirement to respond “due to circumstances beyond its control”.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23: Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The proposed guidance and timescales are clear and appropriate. However, similar to other

parts of the draft Code, timescales could more helpfully included as a flowchart at the beginning of the chapter.

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24: Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This guidance in this section is clear and appropriate.

CHAPTER 16 - REVIEW AND REVISION OF IDPS

Question 25: Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In the main, the guidance in this chapter is clear and appropriate. In relation to action taken following a review of an IDP for a child in receipt of elective home education, the Code would benefit from setting out explicitly the powers and responsibilities available to local authorities to intervene where they have deemed a child is not receiving suitable education at home.

Question 26: Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance in this section is clear and appropriate.

CHAPTER 17 – LOCAL AUTHORITY RECONSIDERATIONS AND TAKING OVER RESPONSIBILITY FOR AN IDP

Question 27: Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance in this chapter is clear and appropriate.

Question 28: Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As mentioned earlier in the response, the reduction of timescales is likely to place extra pressure on local authorities. Seven weeks to decide if a child has an additional learning need and to reconsider a school's decision is appropriate.

CHAPTER 18 - MEETINGS ABOUT ALN AND IDPS

Question 29: Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance in this chapter is clear and appropriate.

CHAPTER 19 – PLANNING FOR AND SUPPORTING TRANSITION

Question 30: Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance in this chapter is clear and appropriate.

CHAPTER 20 - TRANSFERRING AN IDP

Question 31: Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In the main, the guidance is clear and appropriate. However, the chapter should include transfer from a local authority to a maintained school. This will be particularly important during the early years when a child may make the transition from a non-maintained setting to a primary school.

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32: Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This section of the guidance is clear and appropriate.

Question 33: Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This section of the guidance is clear and appropriate.

CHAPTER 21 - CEASING TO MAINTAIN AN IDP

Question 34: Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In the main, the guidance in this chapter is clear and appropriate. In setting out the circumstances in which an IDP may be ceased in the case of a looked after child, bullet point 5 permits a local authority to stop maintaining an IDP should that child be placed out of area. This may not be consistent with the corporate parenting responsibilities of the home

authority required by the Social Services and Well-being (Wales) Act 2014. We would welcome further clarification about these circumstances.

Question 35: Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This section of the guidance is clear and appropriate.

CHAPTER 22 – CHILDREN AND YOUNG PEOPLE SUBJECT TO DETENTION ORDERS

Question 36: Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance in this chapter is clear and appropriate.

Question 37: Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The regulations proposed are appropriate – although we would welcome clarification in the regulations as to what determines a ‘reasonable need’.

Question 38: Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The regulations proposed are appropriate

Question 39: Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As previously noted, we welcome the duty on responsible bodies to act promptly in relation to decisions about additional learning needs. This duty seeks to uphold the principle to intervene early and is supportive of meeting the best interests of children and young people with an additional learning need.

CHAPTER 23 - CHILDREN AND YOUNG PEOPLE IN SPECIFIC CIRCUMSTANCES

Question 40: Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Children in receipt of elective home education

As mentioned earlier in the response, the Code would benefit from:

- Explicitly describing duties placed on parents to secure suitable education for their child. Specifically, Section 7 of the Education Act 1996 requires parents to secure efficient full-time education suitable to their child’s age, aptitude, ability and any special educational needs they may have.
- Explicitly setting out the powers available to local authorities and their responsibilities to intervene where they deem that a child in receipt of elective home education may not be receiving a suitable education that is appropriate to their needs.

CHAPTER 24 - ROLE OF THE ADDITIONAL LEARNING NEEDS CO-ORDINATOR (ALNCO)

Question 41: Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

• The Role of the ALNCO

Estyn welcomes the renewed strategic focus given to ALNCOs in the draft Code. However, the responsibility for all teachers to respond to ALN could be given a greater emphasis throughout the Code.

In the main, the guidance clearly sets out the strategic responsibilities required of an ALNCO. We would welcome stronger encouragement from the Welsh Government for ALNCOs to form part of a provider's senior leadership team. This would match with the responsibilities of the role (for example, budget allocation). It would also help to drive up accountability of the new additional learning needs system by enabling Estyn to recruit more peer inspectors with specialisms in supporting children and young people with additional learning needs. However, an ALNCO will require a sufficient amount of protected time to carry out their duties wherever they are situated in a provider's organisational structure.

- **Prescribed qualifications and experiences of ALNCOs**

While we understand that there is a need to protect those without QTS in current Special Educational Needs Coordinator roles, Estyn welcomes the requirement for all new ALNCOs to register as a school teacher/further education teacher. We also welcome the requirement for ALNCOs to have completed the statutory induction period. In terms of aspirations, this could be built on further to (over time) require ALNCOs to demonstrate senior leadership experience.

CHAPTER 25 - AVOIDING AND RESOLVING DISAGREEMENTS

Question 42: Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance in this chapter is clear and appropriate. We particularly welcome the active offer of advocacy and the alignment achieved with the national advocacy arrangements under the Social Services and Well-being Act 2014.

Question 43: Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As above.

CHAPTER 26 - APPEALS AND APPLICATIONS TO THE TRIBUNAL

Question 44: Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance in this chapter is clear and appropriate. While we recognise that timescales

still need to be determined in regulations, it would be useful also to contain these in the Code.

CHAPTER 27 - CASE FRIENDS FOR CHILDREN WHO LACK CAPACITY

Question 45: Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="checked" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance in this chapter is clear and appropriate.

ANY OTHER COMMENTS

Question 46: Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

None

PART 2 OF THE CONSULTATION: DRAFT EDUCATION TRIBUNAL FOR WALES REGULATIONS

Question 47: Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The proposed regulations are clear and appropriate. Once the regulations are finalised, the Code would benefit from including clear timelines and flowcharts setting out the expectations and responsibilities required of parties at the front of Chapter 26.

Question 48: Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The proposed regulations are clear and appropriate.

Question 49: Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The proposed regulations are clear and appropriate.

Question 50: Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The timescales set out in the proposed regulations are reasonable.

Question 51: Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The timescale set out in the proposed regulations is appropriate.

Question 52: Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This timescales requiring compliance with orders are appropriate.

Question 53: Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The approach to allow an extension to timescales, should the President consider it fair and just is reasonable.

Question 54: Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The regulations are clear and appropriate.

PART 3 OF THE CONSULTATION: DRAFT ALNCO REGULATIONS

Question 55: Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As mentioned earlier in the response, we support the proposal for the appointment of all new ALNCOs to be registered as a school teacher or as a further education teacher with the Education Workforce Council.

Question 56: Do you agree with the tasks that ALNCOs must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As mentioned earlier in the response, we support the renewed strategic focus given to ALNCOs in the new system.

PART 4 OF THE CONSULTATION: LOOKED AFTER CHILDREN

(a) Proposed regulations to be made

Question 57: Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Estyn agrees with this proposal.

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58: Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Similar to our response to Question 19, Part 2 of the separate IDP form could be improved if it directed the description of ALP to be specific, detailed and quantifiable – setting out the specific success criteria for each intended outcome would certainly be helpful in developing more effective target setting.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Revisions within the Part 6 Code are clear and appropriate. However, in setting out the circumstances in which an IDP may be ceased in the case of a looked after child, bullet point 5 permits a local authority to stop maintaining an IDP should that child be placed out of area. This may not be consistent with the corporate parenting responsibilities of the home authority required by the Social Services and Well-being (Wales) Act 2014. We would welcome further clarification about these circumstances.

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Revisions within the Part 6 Code are clear and appropriate.

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Revisions within the Part 6 Code are clear and appropriate.

Respondent Details

Information

Name

Monmouthshire County Council

Organisation (if applicable)

Monmouthshire County Council Consultation included:
ALNCos, EPS, Statutory and Senior ALN Officers, Specialist
Teams and Head Teacher Representatives

CONSULTATION RESPONSES**Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required**

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Consultation Response: NO

Supporting comments**Additional Learning Needs**

The definition is too vague and open to interpretation – the language is ‘woolly’ and lacks clarity and seems to be focussed on mainstream settings.

It was felt that a graduated response is required to support referral routes and resourcing individual / groups of children / young people. The draft Code does not have the four categories of need (included in the current Code of Practice) to support identification and provision allocation. The list provided (7.32) doesn’t offer any specificity of needs and would be open to interpretation by all (external agencies, parents, young people...), which may lead to conflict. Are schools going to have to keep an ALN register as they do now? Will PLASC SEN still exist? Both of these ‘tools’ help schools and central LA ALN services plan provision. The draft Code’s lack of structure and ‘broad brush’ approach is not helpful.

It is positive that there is an assumption that there should be an increase in those children / young people who could have their needs met through universal provision. However, the success of this will depend on the engagement of school improvement consortia who will need to ensure that schools are providing an appropriate, inclusive environment.

It is felt the terms 'significant' / 'significantly greater difficulty' are open to interpretation and more specificity and quantifiable measures are needed to ensure clarity of identification and equity of ALP across Wales.

Additional Learning Provision

The definition is too vague and open to interpretation. Levels of differentiation could be perceived as being 'different from' and 'additional to' that which is usually provided, however this should be part of the universal provision offered by schools.

Interpretation may depend upon the school / organisation and their cohort of children. There needs to be a consistent approach to universal provision and a shared understanding of what 'good' universal provision looks like across LAs, Consortiums and Wales and funding in order to provide 'catch up' at a universal level, rather than relying on children / young people being identified as having an ALN before funding becomes available.

There also needs to be clarity around ALP available within settings to ensure equity of provision for children / young people with ALN across LAs, Consortiums and Wales. Upskilling of teachers at all levels, including at an ITT level is essential to ensure clarity across the workforce.

If we are to ensure a consistent and robust system around ALN and ALP, greater clarity and specificity is needed in the Code.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Consultation Response: NO

Supporting comments

Overall very confusing and open to interpretation. The flowchart is a good idea but it's not specific enough

The specificity required for ALNCoS and class teachers is **not** apparent; there are examples of evidence, although these are not quantifiable and easily applied. Further information would support all school staff to apply this consistently and ensure consistency of practice and equity of provision.

There is a requirement to upskill all teaching and support staff (ongoing CPD and ITT) to ensure a clarity in approaches and appreciation of the Code when communicating with parents.

A holistic consideration of the child / young person is needed, ensuring we take into account cognitive ability and learning data to make an informed decision.

Whilst the Code is not intended for parents, if they did access the Code, it would be open to interpretation and therefore more difficult to provide consistent messages and support for parents and other stakeholders.

Timescales to collate the evidence may be dependent upon external agencies, which can complicate a process. There is also a pressure on school-based staff depending upon the number of requests made and time of the year.

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP, which are required by the ALN Code, appropriate?

Consultation Response: NOT SURE

Supporting comments

It was felt important that there is mandatory content within the IDP to ensure consistency and ease of transfer between settings/ local authorities. The Welsh component is repetitive – could there be one area around language preference?

Depth and detail will be dependent upon the learner, their needs and provision, as well as the other professionals supporting the learner.

We are concerned around the time required to arrange meetings, meet, draft and agree the IDP. This places significant admin pressure on teaching staff (not able to engage in certain activities due to working conditions).

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Consultation Response: NO

Supporting comments

Whilst many welcomed a mandatory form, it **does not** have a positive appearance or appear child-friendly. Even with the few amendments we are able to make, it is not easily

accessible for class teachers, parents to understand and other agencies to access. The order of the form was felt to be confusing – section 3 would be better placed before section 2.

The One Page Profile is likely to be the most useful aspect for class teachers and others working with an individual. Should these not form the front page?

There is no space to review the actions set – should we not be monitoring and tracking this information?

The form doesn't lend itself to the PCP approach or the person centred review process. Is there an opportunity for completed case study IDPs within this format?

WG had a fantastic opportunity to learn from the English system (the impenetrable, unwieldy EHCP) and produce a template that was useful and accessible. This **has not** been achieved and it needs a complete overhaul. In addition, why isn't an online IDP being developed? This is the 21st century and surely, we should be using technology to support the IDP process.

Overwhelmingly the consultation group felt the IDP template was a very poor document and needed to be looked at again.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Consultation Response: NO

Supporting comments

There are a number of 'shoulds' rather than 'musts' which may lead to different interpretations. Again the language of the draft Code lacks clarity.

It is not felt the whole form could be completed successfully by a teacher (admin pressures and the expected content, with a focus on the statutory elements), so this is likely to fall to the ALNCo for completion.

If Welsh Government think that by changing a form they will be changing practice then they have been badly advised. Quality IDPs will only be possible if teachers/ ALNCos have the time to develop them and resources to implement them.

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Consultation Response: NOT SURE

Supporting comments

The PCP approach makes sense and has been developed across nearly all schools. It is positive to ensure the beneficial and worthwhile input of the child and the parent. Admin time is needed to support the review process – inviting, collating and requesting reports from other professionals.

Attendance at meetings may be a concern. At present, few meetings are attended by health and reports are not provided in the majority of cases, to support the review process. Is there specific review paperwork to be used to review the IDP?

The time allocation of the ALNCo needs to be considered, specifically in the transformation period, to support class teachers / designated staff in meeting the requirements of the review meeting.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Consultation Response: NOT SURE

Supporting comments

It is a disappointment that the role of the ALNCO is relegated to the end of the Code – surely as ALNCOs will have the responsibility of driving the reform in schools, this chapter should follow chapter 7.

In many schools, headteachers take on the role of ALNCo – should this be addressed?

The size of the school and the number of children on the ALN Register will need to be taken into account when placing the ALNCo within the staffing structure and in relation to the

release time provided to the role. There is a concern around the word 'sufficient', as this is open to interpretation and also is budget dependent in times of austerity. Without permanent, additional funding schools will not be able to support the ALNCo roles described in the Cod

The accountability and importance of the role requires a level of consideration of the wellbeing of the ALNCo, alongside teaching and support staff. Many concerns were raised around recruitment and retention of ALNCos. In a few schools, this is a role given to a member of staff or an extra as part of a SLT role. How do we encourage people to apply for these posts and then ensure they are upskilled and experienced within the role and remain in post?

There needs to be a clear professional pathway within ALN that leads to positive recruitment and retention. Ultimately, if teachers are making career choices they will look at the prospects a role has in terms of status and pay. Under the arrangements proposed in the draft Code the role of ALNCo is not an attractive one.

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Consultation Response: NOT SURE

Supporting comments

It was agreed by most that the ALNCo needs to be a qualified teacher. The Induction period as an NQT does not necessarily provide the training and experience to take on a role of this nature (unless an individual has a background in ALN).

Prescribed qualifications are limited. Given the nature of the role and the level of experience and expertise required in both ALN and Leadership, should there be a qualification available or funding to follow an existing qualification?

Level 7 qualifications seem most appropriate, particularly if a person does not have experience and expertise in ALN. Although there is a potential difference in requirement between Primary and Secondary (linked to JCQ AA Guidance).

The term 'highly' is open to interpretation and requires some exploration. It is evident that an on-going professional pathway is needed to ensure continued upskilling and development within the role.

If it is recommended that an ALNCo is part of the leadership team they should be paid on the leadership scale – who is funding this?

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Consultation Response: YES

Supporting comments

Yes has been ticked as there is not much change in relation to the key prescribed areas and the work ALNCoS currently do. However, there are many 'must's within the section and successful implementation of this will rely on release time.

There is also a question around whether the ALNCo must or should be on the SLT and the level of pay and release time provided for this role.

Release time should be a 'must' rather than a 'should'. What does 'sufficient' look like? Again the language is 'woolly' and lacks clarity.

Other Comments

The consultation meeting was generally very disappointed that the draft Code was such an inaccessible document. It was felt that it was written in such a confusing, legalistic way and that this would lead to situations where clarity could only be achieved through case law. The language is 'woolly' and confusing, the meaning of the word 'should' is not clear.

Health

The consultation meeting did not think that Welsh Government has a realistic understanding regarding the role of health. One of the main reasons why parents are dissatisfied with the current system is because it takes a long time for this process to be completed. The main reason why statements are delayed is because Health are not able to produce the Appendix C within the required timescales. This situation will not improve with this Code.

The draft Code's timescales are not realistic. Health services are not accountable and have several opportunities to remove themselves from the 'front line' with impunity. Welsh Government has failed to tie in health or social care into the IDP process in any meaningful way. Yet again Health and Social Care have painted Education into a corner to the detriment of children and young people.

Respondent Details

Information

Name

Dr Sarah Nason and Ann Sherlock

Organisation (if applicable)

School Of Law, University of Bangor

Introduction

1. Bangor University School of Law Public Law Research Group has been engaged for a number of years in examining administrative justice in Wales – the system of principles, law, procedures and redress mechanisms to ensure that public sector decision-making is made ‘right first time’, that disputes are avoided or resolved early where possible, and that further measures to resolve disputes are fair, proportionate, efficient and accessible. Our research heavily informed the ‘Legacy’ report of the Committee for Administrative Justice and Tribunals in Wales (CAJTW): *Administrative Justice: A Cornerstone of Social Justice in Wales: Reform Priorities for the Fifth Assembly*.¹ A more recent report discusses the opportunities and challenges for administrative justice as Wales’ first devolved justice system.²
2. We are pleased to contribute to the Welsh Government’s consultation on the Draft ALN Code. Our current research project, funded by the Nuffield Foundation, is entitled ‘Paths to Administrative Justice in Wales’³ and is concerned with the systems available in Wales for avoiding, or ensuring the early resolution of, disputes. Our work focuses on two areas, one of which is education. This submission to the consultation is informed by our work on that project in particular. Accordingly, our main focus in this response is on those aspects of draft Code which relate to the avoidance and resolution of disputes. In addition to those parts of the Code which specifically deal with dispute avoidance and resolution, we also note some areas of the substantive law on which disputes might be avoided if there were greater clarity.
3. In addition to our own study of the legislation, and the policy documents, evidence and debates that preceded its enactment, our learning on this subject has also been informed by workshops, interviews and focus groups conducted with a range of stakeholders, academics and professionals involved with the area. While relying on their input, we respect the anonymity of the more than 70 people who have, so far, generously given their time to our project.

¹ <https://beta.gov.wales/sites/default/files/publications/2018-11/administrative-justice.pdf>

² *Administrative Justice: Wales’ First Devolved Justice System: Evaluation and Recommendations* (Bangor University ESRC IAA, December 2018)

<http://adminjustice.bangor.ac.uk/documents/AJWalesReportESRCDec18.pdf>

³ <http://www.nuffieldfoundation.org/paths-administrative-justice-wales>

4. We do not attempt to answer all the questions raised in the consultation document but instead to concentrate on those issues which have arisen in our research.

The Code's structure and general principles

5. **Question 4: Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?**
6. Our answer regarding the structure of the Code is informed by our perception of the need for clear and accessible information in order to avoid disputes.
7. We can see the value in providing separate chapters for different education settings, although it is impossible to provide a totally comprehensive guide for each setting within those chapters as they must be read alongside the initial chapters which provide the common principles and meaning of the different kinds of duties, time-scales and key definitions such as that of ALN, and how to identify ALN.
8. We consider that providing decision-making flow charts at the end of chapters 8-12 which make reference to the general principles and duties from the earlier chapters might be a means of ensuring that the requirements of the earlier chapters are kept in mind. It is true that the text makes reference to these duties, but a flow chart might provide a useful checklist to ensure that chapters 8-12 are not read in isolation. In particular, at present, the flow chart at the end of chapter 9 (p.109) omits any reference to the general duties (including engaging with families) covered earlier and may risk the conclusion that those duties included in the flow chart are more essential than others which are not included.
9. While the Code embodies statutory guidance and mandatory requirements for a range of public bodies, we consider that, in the interests of avoiding disputes, it should also represent a guide for children, young people, parents and others who find it necessary to inform themselves on their rights and remedies in this area. In the context of our research, we have heard from parents and professionals about the lack of reliable advice available to families, especially in the early stages of their involvement with the system. We also heard from some professionals about the value of a Code which is sufficiently self-contained (i.e., does not require reference to documents outside the Code) as to represent the 'go-to' document on the subject. Accordingly, some of our comments are informed by this view. We understand that, as stated para. 1.14, the Code 'does not aim to provide exhaustive guidance' on all aspects of the ALN system.' However, we have considered whether it is possible to understand the key elements of this system, and how they interact with other existing legislation, from the Code. Even where guidance is available online, clear

signposting will be required to ensure that is found. It must also be borne in mind that the Code will be relied upon by parents and advocates unfamiliar with the general education law and guidance landscape. Respondents to our research project considered that having hard copies of the Code in local libraries or Council offices would be of value.

10. Where other legislation or content is referred to, we consider it is useful that an explanation is given within the Code so that it is not necessary to consult another piece of legislation. At the very least, there should be a web link to the relevant material. As is noted below, this is very much the case with the chapter which purports to give guidance on the duty to have due regard to the UNCRC and UNCRPD. Another example is in chapter 13 in relation to transport which refers to the Learner Travel (Wales) Measure 2008 and guidance issued under that Measure. Similarly, there are some references to a 'disability within the meaning of the Equality Act 2010' but no link to that legislation. We understand that there has been an effort to keep the document to a manageable length, but requiring people to locate and access other documents may hamper the success of the Code. If it is impossible to provide details within the text, providing links to online materials would not greatly add to the overall length.
11. In terms of the accessibility of the Code, we note:
 - a. It is very useful to provide a glossary which brings together key definitions from the ALN Act as well as other education legislation. However, we think it would be useful to place the glossary, which is currently at the end of the first chapter, at the very beginning of the Code, for ease of reference.
 - b. Unlike the current SEN Code, there is no index at present. We wonder whether it is intended to provide one once the consultation has ended and the document is in its final form.
12. **Question 8 asks: Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?**
13. In relation to this question, we would repeat the point made above about including reference to the duties about involving and supporting children, their parents and young people in flow charts at the end of the chapters which deal with decision making.

Duties on local authorities and NHS bodies to have regard to the UNCRC and UNCRPD

14. **Question 9: is chapter 4 of the draft Code clear on what is expected of local authorities and NHS bodies in relation to the duty to have due regard to the UNCRC**

and UNCPRD?

15. This chapter provides very limited guidance on these matters. For anyone coming to the UNCRC or UNCPRD for the first time, the bare lists of provisions provide no idea of what might be required by any of the provisions, and consequently how one might have due regard to them. Only Article 12 UNCRC is set out in full. As footnotes 7 and 9 indicate, there is a great deal more to be said. In relation to discharging the duties in practice, reference is made to ensuring that relevant leaders and staff are aware of the relevant rights, but again no more information is provided. In some places in the Code, there are links to relevant websites (as for example in footnote 8) but no such link is provided here, nor are the rights provided in summary or in full in an annex. Footnotes 1 and 2 give details of when the treaties were signed but it would be more useful to provide a link to where the rights might be located. While there is a reference to the Welsh Government's website for information on the Social Model of Disability (in relation to which there is no due regard duty), no such link is provided for locating the rights in the UNCRC and UNCPRD (where there is an obligation to have due regard). Alternatively, the rights might be set out in an Annex with links to further guidance on what they require in practice.
16. In para. 4.6, it might be clearer that it is the type of decision (individual rather than general / strategic decisions) that determines whether or not the duty to have due regard applies. This does not appear to be clear from the current wording 'on each occasion that a function is exercised.' We understand that this is the wording in the Act but consider it would be useful for it to be explained clearly in the Code. The current wording might suggest that if due regard has been had on one general planning decision, it does not need to be applied if that general decision is subsequently re-visited.
17. There is scope for confusion in the first sentence of para. 4.7. If the purpose of this paragraph is to provide examples of *general or strategic* decisions in relation to which due regard must be given to the two Conventions, the reference at the end of the first sentence to 'a child or young person' in the singular may cause confusion by suggesting that it concerns a decision in relation to a particular individual. This is avoided in the other references in this paragraph by referring to children and young people in the plural, thus indicating general or strategic rather than individual decisions.

Provision of advice and information about ALN and the ALN system

18. Question 11 asks: Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

19. In addition to the current provision in Chapter 6, that chapter might usefully include reference, as there is in the current SEN Code of Practice (e.g., para. 2:14), to the value of working in partnership with local parent and voluntary organisations to produce materials providing information for families.

Responsibility for deciding whether a learner has ALN and for preparing and maintaining an IDP

20. Question 15 asks: Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

21. This response aims to answer that question in relation to the clarity and content of chapters 9 and 10 in so far as it relates to our concerns over whether there is sufficient clarity regarding when the local authority, rather than the maintained school/ FE institution which the learner is attending, will be responsible for preparing and maintaining an IDP.

22. Para. 9.2 regarding schools indicates that this will ‘normally’ be the case only in ‘instances where the...needs are more severe or complex or are of low incidence.’ Para. 10.2 refers to the local authority being involved ‘normally only...when the young person’s needs are more severe or complex’ but it makes no reference to needs which are ‘of low incidence’ as in para. 9.2. It appears that this difference in wording is not significant, as low incidence conditions in relation to FEI students are referred to in para. 10.42.

23. Under para. 9.39 / 10.37, the key issues are whether the ALN ‘will call for ALP that it would not be reasonable for [the school/ FEI] to secure, or where the school/ FEI cannot adequately determine the extent or nature of the pupil’s ALN or cannot adequately determine the ALP that the pupil’s ALN may call for.’

24. The key issues are what can be ‘reasonably’ expected of the school to provide and what it can ‘adequately’ determine. Paras 9.44 / 10.42 give some guidance by providing examples. The first such example relates to a ‘low incidence condition / rare condition’ requiring a specialism that the school / FEI cannot provide. The question in the other three of the four examples relates to the reasonableness of what can be expected to be arranged and accessed by the school or funded or

provided by the school. As the paragraph indicates, the circumstances of the school / FEI in terms of its location, size, budget and experience, will be among the factors in deciding whether it is reasonable for the school / FEI to secure the ALP. We are concerned as to whether this provides sufficient clarity as to where the line between local authority and school / FEI responsibility lies, although we appreciate the difficulty in being more specific given the varying circumstances of schools / FEIs.

25. Under para. 9.45, local authorities 'should', in consultation with maintained schools, establish principles that they will apply in determining whether it is reasonable for a school to secure the ALP. The Code indicates issues on which principles should be developed but no guidance is provided on what would make it reasonable or unreasonable in the local circumstances for a school to be expected to secure the provision.
26. There does not appear to be an equivalent to para 9.45 in chapter 10, although presumably the same factors would be relevant to schools and to FEIs.
27. Ultimately, if the ALP is provided, it does not matter to the child or young person who is providing it. However, the lack of clear principles in the Code on this point may lead to disputes between schools / FEIs and local authorities which may delay the provision of ALP for the pupil. If there are differences between different local authorities as to where the line is drawn between school / FEI and local authority responsibility, it raises the question of whether this might cause difficulties in the case of a learner with a school-maintained IDP who moves to the area of another local authority.

Arrangements for avoiding and resolving disagreements

28. **Question 42 asks about the appropriateness of the requirements placed on local authorities in relation to avoiding and resolving disputes.**
29. We commend the aim of the legislation to ensure the avoidance of disputes.
30. The feedback we have had in our research project is that the availability of accurate advice is crucial for avoiding disputes or ensuring that any that arise are swiftly resolved. This also links with the duties of the local authority set out in chapter 6 regarding the provision of accurate and impartial advice and information on ALN and the ALN system in general.
31. In general, one key factor in avoiding disputes is to ensure the best possible level of communication and engagement with the child / young person and their family. In the interests of avoiding disputes and maximising good communication, it might be

considered whether flow charts at the end of chapters could set out the decision-making processes including reference to the duties regarding provision of information and the engagement of the child, young person and parents in the learner-focused process.

32. To this end, as noted above, we consider that the flow chart provided in chapter 9 might be more detailed, and, in particular, include reference in the decision-making process to the need to engage with the learner and, where appropriate, their family. The text in chapter 9 (para. 9.13) refers back to this duty but it is omitted from the flow chart, which might suggest it is not seen as essential. As noted above, there are no such flow charts in some of other chapters. Keeping the duty to communicate and engage with children / young people and their families prominent throughout the Code is key to preventing misunderstandings which can escalate into disagreements.
33. Chapter 25 of the Code deals specifically with the requirements placed on local authorities in relation to avoiding and resolving disagreements. We are concerned that it appears from the Code that the bulk of these arrangements will be delivered, not by independent bodies, but by local authority staff.
34. The basic duty on avoiding and resolving disputes is set out in section 68 of the Act. As noted in the Code, this section sets out the duty on the local authority to make arrangements for avoiding and resolving disputes between children / young people / parents and education bodies and relevant institutions (as defined in the Act). Section 68(3) also provides that those arrangements 'must include provision for parties to a disagreement to access help in resolving it from persons *who are independent of the parties.*' (emphasis added). 'Education bodies' is defined in section 68(6) as including local authorities. Accordingly, the disputes covered by the arrangements can include disputes between children / young people / parents and a local authority.
35. However, the Code (para. 25.11) refers to the 'staff' delivering these arrangements. Presumably this is a reference to the local authority staff. If this is not what is intended, it is unclear. It is hard to see how staff of the local authority can be described as being 'independent of the parties' and it is extremely unlikely they would be viewed as such by children / young people / parents who might be in dispute with the local authority. If learners and their families are to engage with early disagreement resolution arrangements, it is imperative that the arrangements are, and are seen as, truly independent of any of the parties.
36. The Code (para. 25.12) requires that the local authority must ensure that the staff delivering the arrangements are 'impartial to the outcome of any potential

disagreements.’ However, individuals acting impartially is not the same as persons who are ‘independent’ of the parties. Dealing with issues in-house may lead to a perception that independence is lacking and undermine trust in the arrangements.

37. It is only some way into the chapter that the Code indicates compliance with the requirement in section 68(3) that the local authority must include in its disagreement resolution arrangements provision for parties to the disagreement to access help from ‘persons who are independent of the parties.’ The Code provides (para. 25.34) that ‘[a]s part of the disagreement resolution arrangements, the local authority **must** include provision for parties to the disagreement to access help in resolving that disagreement from persons who are independent of the parties.’ This section on ‘the independence of persons helping to resolve disagreements’ stands as a separate section and it is not clear how much of a ‘part’ of local authority arrangements this independent provision will amount to. Additionally, it is unclear as to whether children / young people / families would have to specifically request this or whether it would be offered.
38. It is true that the provision in the Act requires that the arrangements ‘must include’ provision for access to help from persons independent of the parties. However, in comparison, the law on SEN for England starts from a duty on English local authorities which is similar to the duty imposed on Welsh local authorities in section 68(1): section 56(1) of the Children and Families Act 2014 provides that local authorities ‘must make arrangements with a view to avoiding or resolving’ those types of disagreement set out in the section. Similarly to section 68(3) of the ALN Act in Wales, the legislation for England provides that these arrangements ‘must provide for the appointment of independent persons with the function of facilitating the avoidance or resolution’ of the relevant disagreements (section 56(5)). However, in contrast to the Welsh Code, which provides for at least some of the dispute avoidance and resolution arrangements to be delivered by local authority staff, the SEN Code for England gives effect to the statutory duty by requiring that ‘[t]he service, while commissioned by it, **must** be independent of the local authority - no one who is directly employed by a local authority can provide disagreement resolution services.’ (para. 11.6). It is submitted that the ALN Code should require the same level of independence.
39. If, however, some disagreement avoidance and resolution arrangements are to be provided from within local authorities, it is essential that the Code provides more detailed guidance on how the authority can achieve an acceptable level of separation around those members of staff involved in the disagreement arrangements, so that confidence in those arrangement is not undermined.

40. If the local authority is involved in arrangements seeking to resolve a dispute between children / young people / parents and a school regarding a decision on ALN or ALP, it must be borne in mind that the child / young person / parent may request the local authority to reconsider the school's decision if dissatisfied with the school's decision. The reference to the right to request a reconsideration of a school's decision in para. 25.26 in the middle of the section on 'arrangements to resolve disputes' highlights the fact that the local authority could be trying to support a family to resolve a dispute with a school in a situation where the local authority might subsequently have to reconsider the school's decision. This highlights the risks of 'in-house' delivery of these arrangements.
41. Our other concern regarding chapter 25 is whether there is sufficient clarity in the guidance as to the kind of arrangements that should be made. There is much about the value of dispute avoidance and early resolution, and on the principles which underlie such arrangements. However, we found it challenging to form a clear and concrete picture of what local authorities will be required to provide. It is only at para. 25.31 that the requirement for a meeting is mentioned, and then para. 25.33 refers to the possibility of pre-meeting conversations, a series of meetings, and of different outcomes from the process, for example, 'agreements reached' or 'agreement to disagree'. Some of the respondents to our research noted that it was useful to see the principles about the desired outcomes of the arrangements, but harder to be sure as to exactly what would satisfy the goals set out in the Code, and they indicated that they would welcome some practical examples for guidance (even if they are just 'examples' and not a prescribed process). While it is valuable that there is some flexibility as to the nature of the arrangements that might be made available, we have concerns about whether the guidance in chapter 25 is sufficient to ensure a level of consistency in provision across Wales.
42. Compared to the draft ALN Code, the existing SEN Code of Practice provides a little more guidance for local authorities as to the kind of arrangements that might be considered appropriate and valuable. Para. 2.29 of the current SEN Code sets out examples of possible models for local authority consideration: using a panel of trained facilitators, affiliated to a recognised body in the field of disagreement resolution and buying in services as required; expanding existing disagreement resolution services that cover other areas of the authority's work to include SEN; or using panels funded by a group of neighbouring local authorities. Para. 2.30 encourages local authorities to consider working with external bodies in making their arrangements. The equivalent Code for England under the Education Act 1996 (2001) also made reference to possibility of using SEN Regional Partnerships which would give authorities access to a pool of facilitators (para 2.29). Perhaps this is an area

where authorities might be encouraged to work together within their regional education consortia.⁴

43. Experience in England under the Children and Families Act 2014 has seen an increase in recourse to mediation (engagement in mediation sessions rather than the compulsory contact required by s55(3) of that Act in order to obtain a certificate in order to proceed to a Tribunal appeal). Independent research commissioned by the Department for Education (England)⁵ found that, of the 3,000 parents / young people from 109 local authorities in the study, 42% chose to go to mediation. That research found that, of the group that chose not to use mediation, 36% went on to appeal compared to 22% of those who had chosen mediation, a 14 percentage point reduction in the likelihood of registering an appeal when mediation had been used. Given the aim of encouraging non-adversarial disagreement resolution, it would be useful to see local authorities in Wales being encouraged to consider mediation as part of their arrangements.
44. Local authorities are responsible for ensuring that the arrangements for avoiding and resolving disagreements are ‘appropriate and of suitable quality.’ We consider that it would be of real value if the Code could provide for some form of check on this, independent of the local authority. It would also be of value for there to be a means of monitoring the consistency of the provision made across Wales. We suspect that is going beyond what can be achieved in the Code and may be a matter of the Welsh Government commissioning research on these arrangements after an appropriate time.
45. Para. 25.24 indicates that local authorities should consider how their arrangements can incorporate or complement existing complaints procedures within schools and FEIs. While it makes sense to augment what already exists rather than ending up with multiple different procedures, it is essential that local authorities recognise that these existing complaint procedures may be somewhat variable and might themselves warrant a more coherent approach. It is important to avoid integrating new procedure with existing procedure if the latter is of poor quality.
46. Para. 25.46 suggests that it could be useful for the local authority’s arrangements to be used to support the family and local authority to work together after an appeal to

⁴ In the English context, Harris and Smith note the value of a regional approach for mediation in ensuring quality, consistency, learning opportunities and providing feedback on authority practice: N Harris and E Smith, Resolving Disputes about Special Educational Needs and Provision in England [2009] *Education Law Journal* 1, 10.

⁵ Cullen et al, *Review of arrangements for disagreement resolution (SEND) – Research Report*, 2017. (available at: <https://www.gov.uk/government/publications/send-disagreement-resolution-arrangements-in-england-review> (last accessed 21 March 2019)).

the Tribunal. We consider that this could perhaps be expressed a little more strongly, perhaps in terms that the use of these arrangements **should** be considered following an appeal. This, of course, is only likely to be successful if the arrangements are perceived as genuinely independent of the local authority.

47. Para. 25.49 should provide a link to the Ombudsman's website. To avoid any confusion, it would be helpful to clarify that a school is not a public service provider for the purposes of the Ombudsman's jurisdiction.
48. The information on judicial review might be more clearly explained, especially in relation to highlighting the difference between an appeal to the Tribunal and judicial review (appeal as opposed to review, merits as opposed to legality, and the difference in possible outcomes). There is mention of strict time limits but no indication of what these are or where they can be found. Although it is designed for public bodies rather than members of the public, there is useful information on these issues in the guidance provided by the Welsh Government at:
<https://gov.wales/sites/default/files/publications/2019-02/making-good-decisions.pdf>
49. Para. 25.54 refers to the power of the Public Services Ombudsman, the Welsh Ministers and the Administrative Court to make decisions about whether the local authority was behaving 'lawfully or irrationally' when reaching a decision. In doing so, it conflates three very different jurisdictions and risks causing confusion as to the type of scrutiny provided by each and the possible outcomes. We would be happy to provide further information on this if it would be helpful.
50. Although not a 'means of challenge', it might be of value to refer to the scope for the Children's Commissioner to offer assistance on these matters, but only if the Children's Commissioner considered such a reference in the Code were appropriate.

Advocacy arrangements

51. **Question 43 asks about the appropriateness of the provisions on independent advocacy.**
52. Respondents to our research emphasised the great value in the very early involvement of independent advocates in order to avoid misunderstandings or disagreements escalating.
53. We agree that the independence of advocates is essential as regards the provision of effective advocacy. Unsurprisingly, this was the view of respondents to our research.

Unless advocates are, and are seen to be, independent of the local authority, there will be a reluctance to engage.

54. Para. 25.68 of the Code notes the current practice in Wales of achieving independence by commissioning advocacy services from an external provider, and recommends that the services providing advocacy **should** be funded and managed in a way that ensures independence from the commissioning organisation. We consider that the statutory power in the Act for the Code to impose requirements on a local authority in relation to the provision of independent advocacy services (section 4(5)(a)) should be used to *require* that services are funded and managed to ensure independence.

Additional comments

55. **Question 46 provides an opportunity to make additional comments.** Given that inclusive education is one of the general principles underpinning the Act and the Code, and in order to promote a joined-up approach, we consider it would be valuable to include links (perhaps in chapter 2 on principles or in chapter 11 on the duty to favour education at mainstream schools) to those parts of the *School Admissions Code* and the *Guidance on exclusion from schools and pupil referral units* which relate to learners with additional learning needs.

Respondent Details

Information

Name

Respondent requested anonymity

Organisation (if applicable)**Part 1 of the consultation: The draft ALN Code****Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1**– Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsTimescales**Question 2**– Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As a school, however, we are often waiting for other professionals due to their workload. Timescales appropriate in theory but in practice dependent on resources. A delay of a month or often more is a significant time in the life of a child.

Question 3– Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsStructure of the draft ALN Code**Question 4**– Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 5– Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6– Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Though I do not work in a PRU so would defer to the views of colleagues who do. However, some level of ‘quality control’ e.g. mandatory training is surely necessary to ensure uniform and fair provision.

Chapter 2 - Principles of the Code

Question 7– Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 3 - Involving and supporting children, their parents and young people

Question 8– Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9– Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities(UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10– Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 6 - Advice and information

Question 11– Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12– Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

WG will need to ensure consistency in interpretation of ALN. Again monitoring/ training will be needed. It could be that schools with very different intakes of pupils will 'benchmark' ALN differently.

Question 13– Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

An issue will be what is deemed significant in terms of needs. What one school might deem within the 'normal' range another might think is significant. (See above)

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14– Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Duties on schools, FEIs and local authorities

Question 15– Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 16– Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

I would like to say yes but in reality I will be surprised if all agencies involved are able to adhere to it. For instance the ND pathway in Neath/Swansea has a timescale of 26 weeks which he can't adhere to now let alone reducing that to 35 days.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17– Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Some sample 'case studies' could be helpful

Chapter 13 - Content of an IDP

Question 18– Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 19– Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 20– Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transport

Question 21– Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes but experience suggests that budgets may have an impact

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22– Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

If it can be adhered to

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23– Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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The Designated Education Clinical Lead Officer (“DECLO”)

Question 24– Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

How much work is this for one person in a health board though?

Chapter 16 - Review and revision of IDPs

Question 25– Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 26– Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27– Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28– Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29– Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 19 – Planning for and supporting transition

Question 30– Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 20 - Transferring an IDP

Question 31– Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Transfers of IDPs- Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32– Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 33– Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 21 - Ceasing to maintain an IDP

Question 34– Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 35– Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 37–Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 38–Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is clear. Whether it is appropriate and complies with school teachers pay and conditions I do not know. This seems a highly specialised role and should be remunerated as such. Schools should also be funded to be able to appoint a dedicated ALNCo and not have it as a bolt on to someone who has already got other responsibilities. This is important, otherwise you will find no one wants to take on this vital role and yet again teachers will be looking to leave the profession.

Chapter 25 - Avoiding and resolving disagreements

Question 42 –Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43– Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44– Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45– Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46—Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

After 18 years it is timely to have a New/Revised Code of Practice but we need to ensure capacity of all bodies at all levels to ensure its implementation. For schools high quality training will be vital – and not only for ALNCos. We also need to secure parental/carers understanding and manage expectations. We need to move towards outcomes and not simply focus on provision (which is only the means to an end).

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47– Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 49–Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 50– Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 51– Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 52– Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 53– Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 54– Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Part 3 of the consultation: Draft ALNCo regulations

Question 55– Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It will be necessary to audit current qualifications as role will vary between small primary and large comprehensive schools.

Question 56– Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As above it will depend on how much dedicated time and support is available in each case. With sufficient resource tasks or planning will be possible.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57– Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Again some schools may only have a single child in this category but responsibilities should be clear in each situation.

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58– Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

The main point is communication where relevant and if this can be achieved with the general standard form that could be adequate. Some concerns about older pupils feeling 'different.'

(c) Proposed revisions to the Part 6 Code

Question 59– Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Question 60– Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

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Question 61– Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

For ALN pupils, improvements should begin to happen more quickly. The pressure to adhere to timescales etc. could be to the detriment of other school activities. The cost of employing ALNCoS and ensuring they have non-teaching time will be borne by school. Schools and LAs will clash over ALP and who has to provide it/fund it. Services will begin to treat ALN and ALP like a hot potato and start passing it on quickly to other services so as not to be ones at fault should it not take place or be provided quickly enough. 22 LAs will all have different ideas about how to delegate ALN funding to its schools. Can there be a recommended formula that is fair and equitable.
Big training issues for school staff.

Question 63– What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Are the specialists available able to communicate in Welsh? There don't appear to be enough that can communicate in English at the moment.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65– 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.

Respondent Details

Information

Name**Organisation (if applicable)**

Royal College of Occupational Therapists

Executive Summary

This response outlines the vital role of occupational therapists in working with partners in education to enable children with additional learning needs to achieve their personal and academic potential.

Key points to note from this submission include:

- Occupational therapists play a key role in identifying and supporting children and young people with additional learning needs, taking a person-centred approach and working in partnership with families and health, education and social care professionals.
- Occupational therapists can work directly with children and young people with additional learning needs and indirectly through parents/carers, teachers and others to enable young people to reach their personal and academic potential
- RCOT would welcome clarity about responsibilities for funding, provision and maintenance of specialist equipment to enable children with additional learning needs to access learning opportunities and the wider school curriculum
- Lack of provision for young people with additional learning needs aged 19-25 years means that young people may have difficulty accessing occupational therapy during the transition to adulthood.

Submission

Occupational therapists take a rights-based, person-centred approach and work in partnership with families, education providers and others to ensure that children with additional learning needs reach their personal and educational potential. As a science-based profession, occupational therapists incorporate evidence-based practice into our work to ensure the best outcomes for children and families.

Question 7: Principles of the Code

RCOT supports the principles of the Code. Occupational therapists are committed to rights-based, person-centred practice and the involvement of families/carers at all stages of the therapeutic process. Assessing the views, ambitions and aspirations of the young person is the foundation of occupational therapy assessment and review process and ensures that our recommendations are meaningful and relevant to the individual as they develop and grow.



Occupational therapists have a key role to play in identifying additional learning needs at an early stage. Early intervention reduces the need for more costly, specialist interventions later on but will require a shift in practice models and resources from specialist to universal interventions.

Occupational therapy for children and young people with additional learning needs is most effective and efficient when delivered collaboratively with other individuals and organisations. Occupational therapists are a limited resource but can support the needs of children and young people by training and supervising others to ensure that interventions and adjustments are embedded into children's daily routines.

Question 11: Advice and information

RCOT members are concerned that the Code is a long and detailed document which may not be accessible to all young people and families. We would welcome the inclusion of more visual diagrams (to illustrate timescales for example) to ensure that young people and parents are supported and empowered to participate in the process.

Question 12: Definition of additional learning needs

RCOT supports a graduated response to young people's additional learning needs but are concerned that what is 'generally made available' will vary from one school to another leading to unacceptable variations in provision across Wales.

Question 13:

Occupational therapists have skills and expertise to contribute to the identification of additional learning needs and consider other possible reasons to explain under performance. RCOT members support the need for clear processes and pathways to enable staff in schools and FEIs to highlight concerns and seek further advice from health professionals. RCOT members are concerned however, that this may lead to an increase in referrals and would welcome alternative routes for staff in education to access advice from occupational therapists without the need to make a referral.

Question 15:

Occupational therapist play a key role in identifying additional learning needs in pre-school children. RCOT members would welcome clarification of the processes by which these could be drawn to the attention of the local authority.

RCOT members would welcome clarity regarding information sharing processes between health and education to minimise delays and ensure that additional learning needs are identified in a timely manner.

Occupational therapists enable young people to engage and participate in activities of daily living at home, at school and at play, working in partnership with young people, families, education staff and others. Children and young people with additional learning needs can benefit from direct intervention from an occupational therapist and from indirect input, delivered by others who have received training and support from occupational therapists to ensure that therapy is embedded into a child's daily routine. We would welcome clarity about responsibilities for funding and providing these different types of intervention.

RCOT members are concerned that lack of provision for young people with additional learning needs aged 19-25 years means that young people may have difficulty accessing occupational therapy whilst attending FEIs.



Question 16: Timescales

RCOT members recognise the need for clear timescales to ensure additional learning needs are identified and addressed in a timely manner. There is concern however, that occupational therapy teams may not have the capacity to manage an increase in requests to assess young people with additional learning needs. Any increase in assessment requests may also reduce teams' capacity for delivering interventions identified in IDPs without additional resources.

Question 19: Content

RCOT welcomes the standard format for IDPs.

Question 20

RCOT members would welcome clarity regarding processes for health professionals to contribute to the development of IDPs and for sharing copies of draft IDPs to ensure occupational therapy recommendations are correctly represented. There is a concern that different information systems and information governance procedures across health, education and other agencies will make this a challenge.

Question 22: Duties on Health Bodies - timescales

RCOT recognises the need for clear timescales to ensure additional learning needs are identified and addressed in a timely manner. However members are concerned that the requirement to complete an assessment within 6 weeks (when health services work to a referral to treatment tie of 14 weeks) will mean unfair prioritisation of some young people whose needs are less urgent than those already waiting for assessment.

Question 23

RCOT members are concerned that the description of interventions as 'likely to be of benefit' and 'something they would normally provide as part of the health service in Wales' are vague and open to interpretation. We recommend, in accordance with Occupational Therapy Code of Ethics and Professional Standards, that recommendations should be based on the best available evidence according to the needs and circumstances of the individual.

Question 24

RCOT supports the DELCO role being open to health professionals.

Question 26

In most cases, occupational therapy goals are reviewed and updated more frequently than annually. RCOT members would welcome guidance on the process for requesting that an IDP is reviewed and update to reflect new recommendations, without adding to schools' administrative burden.

Question 29

RCOT acknowledges the importance of multi-agency meetings to identify and review young people's additional learning needs, but is concerned that the Code will raise expectations that therapists will always attend. We would welcome clarity about how occupational therapy advice will be incorporated into the process when therapists do not have the capacity to attend meetings in person.

Question 30: Transitions

Occupational therapists have the skills and expertise to support young people with additional learning needs as the move from one learning environment to another, and as they transition



to adulthood. However lack of occupational therapy provision for young people aged 19-25 years means that young people may have difficulty accessing specialist support during this important life stage.

Question 37: Children and young people subject to detention orders

Children and young people subject to detention orders rarely have access to occupational therapy services, meaning that a full assessment of any additional learning needs and delivery of interventions to address these may not be possible in these settings.

Question 42: Avoiding and resolving disagreements

RCOT recognises the benefits of avoiding and resolving disagreements as early as possible. Members are concerned however, that having different processes for resolving disagreements within health and education is confusing and may extend the dispute resolution process. There is the risk that health professionals will be required to participate in both processes simultaneously, placing additional pressure on limited resources. RCOT would welcome clarity about the relationship between the two resolution processes and how the impact on timescales for completion of assessments and reviews will be managed.

Question 44: Appeals and applications to the Tribunal

RCOT would welcome the inclusion of members with clinical expertise on the Tribunal panel, if an appeal relates to health provision.

Additional information: Equipment

Some children with additional learning needs require specialist equipment to enable them to access learning opportunities and occupational therapists have the skills to identify the most appropriate equipment or adaptation to meet a child's needs. RCOT members would welcome clarity about the process and responsibility for funding, provision and maintenance of specialist equipment, including specialist seating to support children with additional learning needs in mainstream and special school settings.

About the Royal College

The Royal College of Occupational Therapists is the UK Professional Body and Trade Union for over 33,000 Occupational Therapists, support workers, managers and students. Occupational Therapy enables people of all ages to participate in daily life to improve health and wellbeing. They are the only Allied Health Profession trained at a pre-registration level to work within both physical and mental health and work across both health and social care.

Respondent Details

Information

Name Lynne Neagle AC / AM**Organisation (if applicable)** Children, Young People and Education Committee**Draft Additional Learning Needs Code: Welsh Government Consultation**

Thank you for your letter of 11 December 2018, setting out the details of the Welsh Government consultation on the draft Additional Learning Needs Code (the draft Code), and other regulations.

Section 4 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 requires Welsh Ministers to issue a Code on additional learning needs, and section 5 of that Act sets out the procedure for making the Code. In accordance with that procedure, Welsh Ministers must consult specified persons before issuing a Code – and the Children, Young People and Education Committee is one of the statutory consultees listed in the Act under section 5(1), as the relevant National Assembly Committee.

The Committee is very pleased to be responding to the consultation in that statutory capacity. In responding, I thought it would also be useful to set out some background to the Committee's work in scrutinising the ALN Bill, and the process we put in place to consider the draft Code. We believe this will help set out some added context to our response.

During its early scrutiny of the ALN Bill, the Committee was concerned that the Code should be subject to scrutiny by the Assembly before it was issued. In line with the Committee's recommendation 44, the Bill was amended at Stage 2 to provide for an enhanced procedure to apply to the making of the Code. This included consultation with the "relevant Assembly Committee" and approval of the draft Code by the Assembly.



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As one of the statutory consultees, the CYPE Committee considered how best to approach its scrutiny of the draft Code in order to input into the Government's consultation effectively. The Committee agreed to call together a 'working group' to enable direct engagement with expert stakeholders to discuss the detail of the draft Code and to inform the Committee's formal response to the consultation. In doing so, we were mindful not to duplicate the Welsh Government's consultation and proceeded on that basis with stakeholders who we have encouraged to submit their own response to the consultation.

The main purpose of the working group was therefore to gather the views of expert stakeholders on the content of the Code, whether it meets the needs of stakeholders / practitioners and most importantly whether it would help enable the effective implementation of the provisions of the ALN Act in order to support learners with ALN.

Members of the working group included representatives from a number of organisations that had been involved with the work the Committee undertook in scrutinising the ALN Bill during its passage through the Assembly. The Committee wanted to build on this previous scrutiny, and the detailed work undertaken in collaboration with stakeholders. Its considerations were conducted in two parts:

Part 1 – the working group considered an analysis of Welsh Government commitments made during scrutiny of the Bill. This analysis also took account of issues raised during the technical briefing provided by Welsh Government officials on 30 January 2019.

Part 2 – the working group members were asked to lead a more general discussion on the draft Code to highlight any areas of concern, or areas where they believed the draft Code would work well.

The Committee also received written comments from organisations who were involved in the working group, but unfortunately could not attend the Group's meeting on 13 February. Written comments received were circulated to the working group in advance and discussed during its considerations.



The Committee's Response

The Committee's detailed response on the content of the draft Code is set out in the Annex to this letter. This detailed response is based on the table of analysis that formed the basis of the working groups considerations, and contains:

- details of Welsh Government commitments made during the Bill's passage and how these are addressed in draft Code (Part 1 of the table);
- details of other issues raised by stakeholders (Part 2 of the table);
- a summary of stakeholder views on the commitments and other issues; and
- the Committee's view and findings on each of the areas considered.

The Committee urges the Welsh Government to consider carefully the evidence presented by the working group, and the findings made by the Committee. We are fully aware that the drafting of the Code is an ongoing process and that the final Code will need to be laid before and approved by the Assembly before it can be issued. The Committee will therefore consider the Welsh Government's response to the consultation, and may if appropriate, report to the Assembly to inform its decision on whether to approve the Code.

The Committee would like to thank all those who contributed to the working group's considerations, either during the meeting, or through their written representations. Those involved included representatives from SNAP Cymru, Welsh Local Government Association, National Deaf Children's Society, the Office of the Welsh Language Commissioner, Royal College of Speech and Language Therapists, Children in Wales, Royal College of Occupational Therapists, Mudiad Meithrin, Association of Educational Psychologists, NHS Confederation and the Office of the Children's Commissioner for Wales.

This was the first time the Committee has established a working group to consider a specific piece of work, and the contribution of those expert stakeholders helped ensure our scrutiny was as effective as it could be in the short time we had available.

The Committee is fully aware that those stakeholders / organisations who were involved with the group may also be responding to the Welsh Government's consultation in their own right – and we would encourage that. It is vital that the Welsh Government hears from those delivering support for our children and young people – in whatever role they play. The 2018 Act was widely welcomed.

In delivering the new system that fully supports children and young people of Wales with ALN it is vital that we get the ALN Code right so it can effectively underpin the legislation.



Draft Additional Learning Needs Code: Children, Young People and Education Committee response to Welsh Government Consultation

Part 1: Welsh Government commitments during the Bill's passage and how these are addressed in draft Code

Issue		Detail of commitment	Origin		Addressed in Draft Code?	Reference in Draft Code
Discussion area 1: ALN Definition						
1A) ALN definition: difficulty in learning		Code to clarify that a child is not required to have a significantly greater difficulty in <u>all</u> areas of learning to fall under definition of ALN.	WG accepted Rec. 3a, CYPE Stage 1 report.		Quote: "A child or young person could, however, be more able and talented and have ALN. For example, a child or young person may be very proficient in one part of their education but have 'a significantly greater difficulty in learning' than the majority of others of the same age because of difficulties in other parts of their education, or they may be performing well across the curriculum, but still have a disability which prevents or hinders the person from making use of facilities for education or training..."	Para 7.29
		<p>Summary of stakeholders' views</p> <p>On the wider issue of the ALN definition more generally, the National Deaf Children's Society (NDCS) and Children in Wales (CIW) both raised concerns that schools might scale back the number of children they regard as having ALN due to the greater amount of work involved (preparing a statutory IDP) under the new ALN system compared to the current system of School Action for low-level SEN. For example, CIW said:</p>				

	<p><i>"I think there is a danger that those children on just school action aren't automatically going to be transferred to have an IDP, because their needs might be seen as quite low and, whereas they're managing at the moment, to transfer them to an IDP is going to take a lot of work, a lot of time resource for the school, and is just not going to happen. So, I think we're going to see an artificial decrease in the number of children being defined as ALN, even though the definition remains practically the same."</i></p> <p>The prospects of this happening were also raised during the school visits in the Committee's School Funding inquiry, when one school indicated it was likely that (some/many) pupils on School Action would no longer be provided for under the new ALN system due to the greater level of work required and lack of available resources. It was also discussed at the Policy Forum for Wales conference on 20 November 2018 when the headteacher of a special school said a requirement to provide an IDP for every child with SEN/ALN, including those on School Action would "break the system" as mainstream schools "are just not ready for it".</p> <p>This predicted scenario is not the Welsh Government's intention. The definition of ALN in the 2018 Act retains essentially the same definition as currently for SEN and the Welsh Government's intention is that all of the approximately 100,000 pupils currently identified as having SEN will have an IDP and receive the corresponding provision. If applied correctly, the definition should therefore not result in any 'raising of the bar' for ALN and any reduction in the number of pupils supported.</p>
	<p>Committee Response (1A – ALN definition)</p> <p>The Committee is satisfied that the commitment made by the Welsh Government has been met, and that Paragraph 7.29 of the draft Code qualifies that a child does not have to have difficulty in all areas of learning to fall under the definition of ALN.</p> <p>However, as highlighted in the summary of stakeholder views above, there is some concern regarding the application of the ALN definition more generally with some suggestions that resource pressures will mean pupils have to exhibit a higher level of need to be judged as having ALN and qualify for an IDP. The Committee therefore calls on the Welsh Government to unequivocally clarify in the ALN Code that there is no change to the threshold of what constitutes ALN under the new system, compared to SEN at present.</p> <p>The Committee is extremely concerned that pupils on School Action may no longer be provided for under the new ALN system due to the greater level of work required and lack of available resources – as this was clearly not the intention of the Act. We call on the Welsh Government to make it absolutely clear in the Code and/or through an awareness campaign that this must not be the case.</p>

	Our specific concerns referred to in this section relate to the adverse effect inadequate resources could have on the way the definition of ALN is applied. We have set out our view on resourcing more generally within issue g in the section on other areas. Whilst not necessarily for the Code itself, the Committee strongly believes that the availability of appropriate resources (whether that is funding or staff) is absolutely essential to enable the successful implementation of the Act. Other concerns in relation to specific discussion areas, and specific resource issues are documented in the relevant sections within the Committee’s response.				
Discussion area 2: Early Years					
2A) Early Years: defining ALN and assessing development		Code to clarify that, in the context of children under compulsory school age, the reference to ‘learning’ in the ALN definition includes more informal types of learning, such as learning through play and social interaction.	WG accepted Rec. 3b, CYPE Stage 1 report	Quote: “In considering what amounts to a ‘significantly greater difficulty in learning than the majority of others of the same age’, it should be borne in mind that learning is about acquiring knowledge or skills, which may be done in many different ways and how it is done can vary according to the age of the learner. For example for young children learning takes place through play and experience, rather than through more formal methods which are more common for older children such as instruction by a teacher or study by a learner.”	Para 7.21
		Code to clarify that assessments for ALN in respect of children under compulsory school age must account for how infants develop, including through learning through play, and their needs for stimulation, encouragement and social interaction.	WG accepted Rec. 18, CYPE Stage 1 report	Quote: “In the case of young children, learning should provide the opportunity to develop their knowledge, skills and understanding of the world through exploratory play and experiences. Children with ALN might require ALP in the form of exploratory play, or other ALP to enable them to access appropriate play opportunities/activities.”	Para 7.68
		Summary of stakeholders’ views Stakeholders welcomed the references to informal learning and development such as play and experiences in paragraphs 7.21 and 7.68 within the guidance on how a young child in early years is assessed and potential ALN identified. However,			

	<p>the Children’s Commissioner’s Office would prefer assessments for ALN at early years to focus on the child’s development and needs at that age, rather than projecting what needs they would have if they were of compulsory school age:</p> <p><i>“The decision is slightly different than for older children and young people and it’s, if they don’t have additional learning provision at this point, would that impact what they are like when they are of compulsory school age, as opposed to being focused on responding to the needs of the child at that point. (...)</i></p> <p><i>We would like to see it being a needs-led definition of ALN, not guesswork as to what the child may be presenting with in two years’ time.”</i></p> <p>To some extent, this is an issue regarding the definition in the Act. Section 2(3) defines ALN amongst children in early years in the context of whether they would require Additional Learning Provision (ALP) when of compulsory school age.</p> <p>There remains some concern about whether the a child of very young age will be seen by the right professionals to identify ALN. It was noted that parents may not in a position to pick up on any learning or developmental problems, particularly as they may have no baseline expectations of what their child should be able to do at a particular age. CIW said:</p> <p><i>“In terms of a child, they might not see any professionals, so it’s actually up to the parents then to actually pick up on whether their child has got any delay. I don’t know how you can mitigate that. It is really difficult. But it’s sort of raising awareness of all of the professionals that the child might come into contact with. (...)</i></p> <p><i>[Somebody at a Welsh Government stakeholder event] was saying she had a child who was about 12 months old and she said she would only see the health visitor on one occasion maybe. But that is the difficulty. If the parent is not skilled enough to identify the ALN, there’s going to be a gap in terms of the child being picked up, and, as we know, early intervention is key, really.”</i></p> <p>The WLGA referred to the Welsh Government’s Healthy Child Wales programme and suggested that the Code could make greater linkage with this programme and ensure that learning difficulties were part of what health visitors looked out for.</p> <p>The draft Code says that parents’ observations of their child “are often crucial to early identification” and that local authorities and non-maintained nursery providers “should be open and responsive to such expressions of concern”.</p>
	<p>Committee Response (2A – Early Years: defining ALN and assessing development)</p> <p>The Committee welcomes the references to informal learning and development (such as play and experiences) in paragraphs 7.21 and 7.68 of the Code, relating to how a young child in early years is assessed and potential ALN identified.</p> <p>However, the Committee agreed with views expressed by the Children’s Commissioner for Wales suggesting that assessments for ALN at early years should focus on the child’s development and needs at that age, as well as projecting</p>

	<p>what needs they would have if they were of compulsory school age. The Committee accepts that the Code could only do that within the parameters of the Early Years ALN definition in section 2(3) of the ALN Act – but believes that the Code should refer to the need to consider a young child’s difficulties and needs in the context of their age at that time, as well as projecting whether they would need ALP once they were of compulsory school age.</p> <p>As outlined in the summary of stakeholders’ views, there is concern that Code provides insufficient guidance on the involvement of relevant professionals in monitoring very young children. We believe the Code should more clearly set out the respective roles of practioners, for example health visitors, in being vigilant to signs of ALN and flagging concerns. Whilst being mindful that the Code is not aimed directly at parents, the Code could also set out the information that could be provided to parents to help them be vigilant to the early signs of ALN and what they should do in such cases.</p> <p>The Committee also agrees with the views expressed that the Code should make greater linkage to the Welsh Government’s Healthy Child Wales programme to help ensure that learning difficulties are part of what health visitors looked out for.</p>				
2B) Early Years: LA lead officer	Code to provide clear routes for referral from professionals in early years. The Act created an Early Years ALN lead post within LAs. Minister, Alun Davies, said the Code would outline what is entailed by this role.	WG accepted Rec. 20, CYPE Stage 1 report, and amended the Bill at Stage 2.		Code sets what LA functions the Early Years ALN lead officer will be expected to fulfil, the requisite experience and expertise, as well as their role and strategic responsibilities.	Paras 8.38 to 8.47.
	<p>Summary of stakeholders’ views</p> <p>Stakeholders welcome this role but are concerned about the level of responsibility and potential workload that could fall on to one individual for the whole local authority area. They stressed that it was vital that the Early Years ALN Lead Officer (ALNLO) has the necessary training and experience. There were also some concerns that amidst funding pressures on local authorities, staff could be “almost shoehorned”, as the Association of Educational Psychologists called it, into the post or have it added to other existing responsibilities.</p> <p>The Code does specify the experience and expertise that an ALNLO <u>should</u> have and that a local authority <u>should</u> only designate an ALNLO if it considers them to be suitably qualified and experienced to deliver the expectations of the role.</p>				

	<p>The WLGA advised that there is an ADEW Early Years ALN Group which is developing a job description for the ALNLO post. The Royal College of Speech and Language Therapists also informed that there is work underway in one particular region to look at what training is required for the ALNLO and what training is required for the underlying workforce.</p> <p>NDCS expressed some concern that there was no reference to the ALNLO's involvement with specialist professionals, for example teachers of the deaf and the visually impaired, whereas these are mentioned in the professionals school and FEI-based ALNCOs should work with. (Paragraphs 8.44 and 8.46 of the draft Code say the ALNLO should collaborate with health bodies and health practitioners, working with them towards proactive early identification and prevention.)</p> <p>CIW thought that there could be greater reference to the third sector in whom the ALNLO should work with. Paragraph 8.44 refers to "any other agencies or services that work with children or young people", although the examples given are all public sector-based.</p> <p>The Children's Commissioner's Office pointed to a potential conflict of interest for the ALNLO as they would be involved in both the assessment process as well as the financing of provision. They said they were still forming a view as to whether there should be separation of these functions.</p> <p>SNAP argued that one of the first and foremost tasks for an ALNLO should be to map out what expertise and provision currently exists across their local authority area, identifying any gaps, as this can vary considerably.</p>
	<p>Committee Response (2B – Early Years ALN lead officer)</p> <p>The Committee was pleased that the role of the Early Years Additional Learning Needs Lead Officer (ALNLO) was established in the Act, and that role would have responsibility for co-ordinating a local authority's functions under Part 2 of the Act. The Committee is generally satisfied that the Code sets out what LA functions the ALNLO will be expected to fulfil, the requisite experience and expertise, as well as their role and strategic responsibilities. However, the Committee agreed with a number of the concerns raised and believe the Code could be strengthened in the following ways:</p> <ul style="list-style-type: none"> • the Code could include more clear reference to the ALNLO's involvement with specialist professionals, for example teachers of the deaf and the visually impaired. (these are mentioned in the professionals school and FEI-based ALNCOs should work with); • in relation to who the ALNLO should work with, there should be greater reference to the third sector. Paragraph 8.44 refers to "any other agencies or services that work with children or young people" but the examples given appear to be all public sector-based. <p>We note that the Code specifies the experience and expertise that an ALNLO should have and that a local authority should only designate an ALNLO if it considers them to be suitably qualified and experienced to deliver the expectations of the</p>

	<p>role. It is however important to set the right level of expertise and experience for the ALNLO post and ensuring that necessary training is available for officers to meet the required levels.</p> <p>A further concern raised is that while the Act requires a local authority to designate an ALNLO, the Code states that a local authority should only do this if it considers them to be suitably qualified and experienced. However, it is unclear what would happen if a local authority cannot identify an officer with suitable qualifications and experience, either by designating an existing member of staff or through recruitment. It is also unclear how a local authority would cover any period where the designated ALNLO was absent (especially if this absence is unforeseen and/or long term).</p> <p>The Committee believes therefore that the Code should specify the steps a local authority should take to ensure that a suitable officer can be identified for the ALNLO role (including where this might not be immediately possible), in order that the requirements of the Act (and Code) can be met. We believe this should include the local authority identifying a pool of officers who are suitably qualified and experienced that can take on the role of the ALNLO as a contingency.</p>			
Discussion area 3: Medical Needs				
3A) Medical needs	Code to provide clarity about where medical needs fall under the definition of ALN and the relationship between the ALN system and healthcare needs (eg the statutory guidance issued in March 2017).	WG accepted Rec. 48, CYPE Stage 1 report.	Medical conditions are cited as an example of one of the causes of ALN. Expanded upon in para 7.31: “In some cases, healthcare needs (for example, as a result of a medical condition) may have a significant impact on the child or young person’s experiences and on the way they function in school or further education. The impact may be a direct one, in that their cognitive abilities, physical abilities, behaviour or their emotional state may be affected. The impact could also, or alternatively, be indirect, for example by disrupting their access to education through unwanted effects of treatment or through the psychological effects that serious or chronic illness or disability can have on a child or young person and their family.”	Para 7.17 Para 7.31

			<p>The Code qualifies that healthcare needs by themselves do not indicate ALN; the definition of learning difficulty or disability in section 2 of the Act still has to be met:</p> <p>“However, not all children and young people with a healthcare need will have ALN. As with other learners, the question is always whether the child or young person has a learning difficulty or disability which calls for ALP. There will be many instances where a child or young person with healthcare needs does not have a learning difficulty or disability, or if the person does, the learning difficulty or disability does not call for ALP. In these cases, the child or young person’s needs should be met through other means.”</p> <p>The Code also discusses how healthcare needs can lead to an need for the learner to be Educated Otherwise Than At School (EOTAS).</p>	<p>Para 7.32</p> <p>Paras 23.14 to 23.15</p>
	<p>Summary of stakeholders’ views</p> <p>There was some suggestion that the draft Code remains relatively vague about the interconnection between medical needs and ALN. Stakeholders felt that paragraph 7.31 could be strengthened to include words to the effect of ‘including their learning’.</p> <p>However, it was generally accepted that the draft Code reinforces the position of the Act that medical needs do not automatically indicate ALN but they may in some cases, or even often, result in the child or young person having a significantly greater difficulty in learning, thereby satisfying the definition in section 2 of the Act.</p> <p>Stakeholders felt it was important there was sufficient cross-reference between the Code and the Welsh Government’s statutory guidance on <i>Supporting Learners with Healthcare Needs</i> (2017).</p>			

	Committee Response (Medical needs) <p>The Committee welcomes the fact that the Code includes medical conditions as an example of one of the causes of ALN. However, we agree with some of the concerns raised that the draft Code is relatively vague about the interconnection between medical needs and ALN. We believe that paragraph 7.31 could be strengthened to include words to the effect of ‘including their learning’ to make it more clear that healthcare needs can impact on learning and educational outcomes and, where they do, may indicate ALN.</p> <p>While we acknowledge that this may be covered by the words “the way they function in school or further education”, we believe this paragraph would benefit from such clarification (and more in line with the approach the Committee took during scrutiny of the Bill, which was to ensure such things were explicitly referenced).</p> <p>A further concern is that the Code does not seem to make sufficient reference to how medical needs in young children would be considered when assessing whether they would have ALN, and we believe the Code could also be strengthened in this regard.</p>			
Discussion area 4: Information / advice and Advocacy				
4A) Impartial information and advice	Code to detail how LAs will arrange for <u>impartial</u> information and advice should be provided. WG amendment to the Act added the term ‘impartial’ to the relevant section, whilst rejecting the Committee’s call for it to have to be independent.	WG committed to this when rejecting Rec. 27, CYPE Stage 1 report, which said information and advice should be independent.	Chapter 6 covers advice and information. Quote: “A local authority may choose to provide advice and information itself. Alternatively, the local authority could work with external service providers, including the third sector, to provide information and advice about ALN. However local authorities decide to provide the information and advice, in making their arrangements to do so, they must have regard to the principle that the information and advice must be provided in an impartial manner.”	Chapter 6 Para 6.5

Summary of stakeholders' views

Some stakeholders revisited the question of whether information and advice should have to be independent. The Act requires it to be impartial but not independent. There were some **calls for the Code to define what is meant by impartial**. SNAP were sceptical about whether local authorities could fully meet the requirement to provide information impartially:

"There's the fundamental thing that, where decisions are made regarding resourcing, it's not in, necessarily, the provider's interest to ensure that a family is fully informed of everything, and I think the reference to leaflets and the reference to websites—have you ever looked at most of the websites that are in existence from local authorities for ALN? They are very poor. I know some are working at it on a regional basis now, but they're so poor, and they are not accessible to families."

NDCS called for there to be quality assurance over the information were providing, suggesting there might be a role for Estyn:

"But I suppose this is an issue separate from the code, because I think it's a point that's going to need quality assurance and I really think that it's something that we want to see Estyn being involved in and having a look at what information they're putting out there to families, making sure that it's impartial and making sure that it's sufficiently detailed so that parents really do understand that if they're unhappy, they have these proper rights to appeal, and that children, crucially, do understand that they have rights to disagree with adults. (...) And yes, I think the detail in this section of the code is not going to remedy the issue."

SNAP argued that the draft Code is "incredibly weak" on information and advice for young people at post-16 and described how in general the proposals for information and advice and interaction with families have been diluted over time:

"But I just think it's very weak, and I have real concerns. We've been supportive of this from 2004 onwards, but we've gone from a Green Paper that talked about—parent partnership in the current code had a whole chapter; it's gone. In the Green Paper, we went to family partnership; it disappeared. We then went to information and advice in the White Paper and we've gone now to it being impartial, and something the local authority and schools are providing themselves. There will always be a need for independent—wherever it comes from; wherever—. This is not about SNAP Cymru. This is about parents having reliable and credible information."

Paragraph 6.9 of the draft Code gives guidance on how local authorities could arrange for information and advice to be provided by an external organisation, instead of or in addition to, providing this themselves. However, SNAP feel that the draft Code "**suggests that the local authority can be the sole provider of information and advice**" and "**doesn't acknowledge that there are lots of other sources out there**".

	SNAP also called on the Code to include face-to-face support as an example of how information and advice should be provided. However, it is included as such an example in paragraph 6.7.			
	<p>Committee Response (Impartial information and advice)</p> <p>During scrutiny of the Bill, the Committee had called for the provision of information and advice to be independent of local authorities. This was rejected at that time, but the Committee welcomed the fact that the Bill was amended to provide that that advice was ‘impartial’. While some concern was raised as to whether information and advice should have to be independent, we are clear that this is not a requirement of the Act. To that extent, the Committee is satisfied that the Code should adequately ensure that information and advice provided, or arranged, by local authorities will be impartial.</p> <p>However, the Committee does believe that the Code could be strengthened in this area to ensure there is no presumption on local authorities providing information and advice themselves and to make it clearer that arranging for information and advice to be provided externally is one way of ensuring it is impartial.</p>			
4B) Information and advice at key points in education	Code to require information and advice be provided at key stages/points within the learner’s education – key transition, entry, exit points.	WG accepted Rec. 9, CYPE Stage 1 report.	Chapter 19 of the Code deals with transition planning. Para 19.16 lists common transitions points, including entry into education, between key stages, and into post-16 education or independent living.	Para 19.16
	Minister, Alun Davies: “the code will itself build on this with mandatory requirements in respect of notifications at appropriate times.”	When resisting amendment 152 at Stage 2.	Para 19.12 refers to the duty on local authorities to provide information and advice and that this should including learners nearing a transition.	19.12
	<p>Summary of stakeholders’ views</p> <p>NDCS and CIW raised concerns about the degree to which transition out of compulsory education is covered within the draft Code. NDCS in particular pointed to the lack of reference to careers advice and argued that what is included in the is a backward step:</p> <p><i>“The number of references [to careers advice] is so small; I can’t remember how many—it was like 16 or something, as compared to loads in the old code. So, it’s a big backtrack. (...)</i></p> <p><i>“This chapter of the code [chapter 19, Planning for and supporting transition], it actually contains one of the paragraphs that worries me the most, and that paragraph is 19.54, which seems to be a massive backtrack in terms of careers advice.</i></p>			

	<p><i>So, under the current code, anyone who has a statement of educational needs must have a careers adviser invited to their year 9 review. This paragraph seems to imply that the vast majority of ALN learners can access just mainstream careers advice."</i></p> <p>Chapter 19 and paragraphs 19.45 to 19.71 of the draft Code in particular give guidance on transition beyond compulsory education.</p>			
	<p>Committee Response (Information and advice at key points in education)</p> <p>The Committee agrees with the concerns raised by the working group that there is a lack of adequate detail in the Code in terms of transition out of compulsory education. This includes a lack of reference to careers advice and ensuring this is available at key points and relevant and appropriate to learners with ALN. The Committee believes that these are two very important areas for learners with ALN, and that the Code must be strengthened to provide more detail on these areas.</p>			
<p>4C) Offer of information and advice, disagreement avoidance and resolution, and advocacy after key decisions, including independence of disagreement avoidance and resolution</p>	<p>Code to require that information and advice is offered after each key decision is taken (reviewing, ceasing IDPs etc) rather than solely at the beginning of the process.</p> <p>Cabinet Secretary, Kirsty Williams, said at Stage 3: "code will be used to set out the various points at which information about advocacy services must—and I repeat, must—be provided to children and young people. This will apply especially when notifications of decisions are being made."</p>	<p>WG accepted Rec, 30, CYPE Stage 1 report.</p> <p>When resisting amendment 5 at Stage 3, which called for information and advice about the availability of advocacy to be provided at key points in education and after key decisions.</p>	<p>Code states that the following must be provided when notifying of decisions that the learner does not have ALN, that their request for an IDP review has been declined, or that their IDP will be ceased:</p> <p>"information about how to access the responsible local authority's arrangements for providing people with information and advice about ALN and the ALN system."</p> <p>"details of the responsible local authority's arrangements for the avoidance and resolution of disagreements and its independent advocacy services."</p> <p>In terms of disagreement avoidance and dispute resolution, the WG officials indicated that the requirement in section 68 of the Act for this to be available from a person(s) "independent of the parties" would not preclude this being someone within the same</p>	<p>Paras 8.17, 9.16, 16.20, 21.16, 25.8</p> <p>Paras 25.34 to 25.36, discussed in WG</p>

				local authority, provided they have had ‘no previous involvement’ with the family and have ‘no vested interest in the outcome’. The Committee wrote to the Minister for Education seeking confirmation of the Welsh Government’s interpretation of the term “independent of the parties” in this section of the Act, and the explanation given in paragraph 25.36 of the draft Code.	Technical Briefing
	<p>Summary of stakeholders’ views</p> <p>NDCS said it would be useful if each of the relevant paragraphs within the Code should state that notification of key decisions and details about what is available should be in plain language and in a format that meets any accessibility requirements of the family. However, the draft Code’s guidance on information and advice more generally (paragraph 6.8) does state that information should use language that children, their parents and young people can easily understand.</p> <p>The Royal College of Speech and Language Therapists summed up the dilemma of striking a balance between completeness in each individual chapter of the Code and keeping it as a concise and accessible document:</p> <p><i>“I think it’s difficult, isn’t it, because there are some bits—chapters 8 to 12—where it’s written for the different settings, and there’s repetition in there. But then, we don’t want chapter 6 or the content of that written into all of the other chapters as well. It is an incredibly long document already, and all we’ve talked about today is adding things into it rather than taking things away.”</i></p> <p>SNAP have written to the Committee about the guidance given in the Code on the application of section 68 of the Act, which requires local authorities to make arrangements for disagreement avoidance and resolution. This must include provision from “persons who are independent of the parties”. The Assembly’s Legal Services are preparing a note for the Committee on this issue, including what is meant by “independent of the parties” and the references in the draft Code to “no previous involvement” and “no vested interest in the outcome” in this context. The Committee has written to the Minister for Education to ascertain the Welsh Government’s understanding of interpretations of section 68 and paragraphs 25.34 and 25.36.</p>				

Committee Response (Independence of disagreement avoidance and resolution)

The Committee welcomes that the Code does, at various key points, set out how information and advice would be provided. We recognise that paragraph 6.8 of the Code states that information made available by local authorities should use language that children, their parents and young people can easily understand. However the Code could go further and include reference in each of the relevant paragraphs to state that notification of key decisions and details about what information is available should be in plain language and in a format that meets any accessibility requirements of the family.

Detailed concerns have been raised about the application of section 68 of the Act, which requires local authorities to make arrangements for disagreement avoidance and resolution. Concerns relate specifically to the interpretation of section 68(3) which states that arrangements under section 68 must include provision for parties to a disagreement to access help in resolving it from “persons who are independent of the parties”. In considering these concerns, the Committee has also considered how independence is interpreted with regard to section 69 on advocacy services.

The Committee wrote to the Welsh Government separately about this. The response from the Welsh Government simply confirms that Paragraph 25.36 of the draft Code deals with the independence of persons helping to resolve disagreements, and sets out the way in which “independent person” should be interpreted for the purposes of s.68(3) of the Act. The Minister, in her response, goes on to say:

“At this stage, I do not feel it would be appropriate for me to provide the Committee with a further interpretation beyond that which has been included in the draft Code for consultation. However, I would welcome the views of the Committee, along with those of other respondents to the consultation, about whether this interpretation is appropriate or sufficient, including views on whether the Code should impose any additional requirements (in accordance with the power to do so in s.4(5)(a) of the Act) in relation to this matter.”

The Committee accepts that the Code cannot contain anything that is contrary to the s68(3) of the Act, but there is uncertainty as to what s68(3) means in practice. The Committee believes that the interpretation in the draft Code is not sufficient or appropriate as it does not add any clarity. We believe the Code must provide clarity on the interpretation of section 68(3) of the Act, in particular to answer the following issues:

- If the family’s disagreement is with the school, and there has been no local authority involvement, would someone within the local authority be considered independent? Whilst a local authority is not at that stage a party to any disagreement, there is potential for them to be a party in the future, for example if a parent asked for a reconsideration of the school governing body’s decision.

	<ul style="list-style-type: none"> If the case has been referred to the local authority, or the local authority is otherwise involved, is the local authority as a whole prevented from being able to act as an “independent person”, or would they be able to satisfy the requirement for independence, by for example, using an officer or department within the authority unrelated to the case? <p>In relation to independence of advocacy services, the Committee acknowledges that the relevant sections of the Code are based on the interpretation of section 69(3) of the Act. However, we believe the Code should clarify to those involved whether it would be possible for a local authority to provide independent advocacy services, and if so, in what circumstances?</p> <p>The Committee notes that the Minister has powers under section 4(5)(a) of the Act to impose requirements on a local authority in respect of arrangements it must make under sections 68 or 69.</p> <p>As such we consider that the Minister should give consideration to using these powers to clarify (a) the extent to which local authorities are able to deliver avoidance and resolution services themselves; (b) the circumstance (if any) in which a local authority employee is able to act or is prohibited from acting as an “independent person” for the purposes of section 68(3); and (c) the extent to which local authorities are able to provide independent advocacy services themselves.</p>			
4D) Charging for advocacy	Code to ensure that the provisions in the Act for independent advocacy services do not allow the possibility that the end user of the services be charged (ie any charging would only be by provider to LA.)	WG accepted Rec. 28, CYPE Stage 1 report.	Quote: “The local authority must ensure its arrangements for avoiding and resolving disagreements are provided free of charge at the point of delivery.” “The local authority must ensure its advocacy service is provided free of charge at the point of delivery.”	Para 25.10 Para 25.62
	Summary of stakeholders’ views Stakeholders were content that the draft Code satisfactorily addresses this.			
	Committee Response (Charging for advocacy) The Committee is satisfied that the Welsh Government’s commitments have been met and that no changes are needed to the Code in this regard.			

<p>4E) Explaining what advocacy means</p> <p>(not directly related to a WG undertaking but included here as relevant to this discussion area)</p>	<p>During this discussion area, the working group discussed an issue relating to advocacy that did not concern the commitment or undertaking given by the Welsh Government (which was on the specific issue of ensuring that the learner would not have to pay for independent advocacy services).</p> <p>Summary of stakeholders' views</p> <p>Stakeholders were concerned that the draft Code does not convey what is meant by advocacy and that it indicates it is only about giving advice to the learner. The Children's Commissioner's Office said:</p> <p><i>"It's not enough to just make the provision available, but young people and families need to understand what an advocate is. So, there needs to be more in that around those key decisions—there needs to be more about explaining and ensuring understanding of what advocacy means, because we know that that affects uptake for young people. Also maybe a reflection in here that advocacy is an amplification of the voice of the child or the voice of the family as well, rather than just another step within the disagreement, actually what the role of advocacy is. (...)</i></p> <p><i>And I think it could refer to what an advocate is. So, it could include a definition of what this code expects successful advocacy to represent."</i></p> <p>SNAP added:</p> <p><i>"They're quite confused in that role as well, Chair, because they talk about the advocate providing advice. That isn't the role of an advocate. What they've tried to do, because parent partnership has gone, is to merge the role a little, and, interestingly, in the code, originally it was for young people and their parents—'and their parents' has been taken out, so it's just the 'young person' now. But, you know, they are not there to advise; they are there to amplify the voice of the child."</i></p> <p>What does the draft Code say?</p> <p>Paragraph 25.58 of the draft Code gives a list of the purposes of advocacy:</p> <ul style="list-style-type: none"> ▪ assist the child or young person to communicate their views, wishes and feelings and ensure that the child or young person is heard and listened to; ▪ speak on behalf of the child or young person where the child or young person is not able to communicate their views, wishes or feelings, or only partly able to express their views, wishes or feelings; ▪ work with the child or young person and support them by providing information, advice and support; ▪ support the child or young person to understand their needs, understand the relevant processes, understand their rights, take an active participation in decision making and understand the implications of any decisions made;
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	<ul style="list-style-type: none">▪ give information to the child or young person, help them understand their options and make informed decisions, and support them to challenge the local authority or FEI where they feel their needs are not being met;▪ assist the child or young person to seek resolution to any problems or concerns which have been identified by the child or young person, help the child or young person to clarify the complaint and help them to understand the outcomes they are seeking;▪ provide children and young people with support from any emotional challenges which arise from the process, such as expressing a different view from their parents.				
	<p>Committee Response (Explaining what advocacy means)</p> <p>During discussions of the working group, a number of concerns were raised relating to advocacy, and particularly what advocacy meant. The main concern was that the draft Code does not convey what is meant by advocacy and that it indicates it is only about giving advice to the learner.</p> <p>The Committee has considered this, but believes that paragraph 25.58 of the draft Code is sufficient in explaining what it meant by advocacy. However, we call on the Welsh Government to consider the views expressed by stakeholders to establish if any changes to the Code may be necessary.</p>				
Discussion area 5: Low incidence high complexity needs					
5A) Low incidence high complexity needs	<table><tr><td><p>The then Minister, Alun Davies said:</p><p>“I have commissioned reviews of the evidence for effective interventions for a range of low-incidence, high-complexity needs, and these will be published as accessible guides for practitioners, to ensure they have informed, evidence-based decisions.”</p><p>Stopped short of saying this would be in the Code but referred to not wanting to put 'code</p></td><td><p>When resisting amendment 87 at Stage 2, which called for the Code to include clear pathways and guidance on cases of low-incidence high-complexity needs.</p></td><td><p>In the context of explaining appropriate IDP content:</p><p>“A child or young person with severe, complex or low incidence needs will likely require specialist input and advice and their IDP is likely to contain contributions from a wide range of agencies and detail a much wider range of interventions”.</p><p>Also cited as a criterion when deciding whether a governing body or the local authority should be responsible for an IDP.</p></td><td><p>Para 13.2</p><p>Para 9.44, 10.42</p></td></tr></table>	<p>The then Minister, Alun Davies said:</p> <p>“I have commissioned reviews of the evidence for effective interventions for a range of low-incidence, high-complexity needs, and these will be published as accessible guides for practitioners, to ensure they have informed, evidence-based decisions.”</p> <p>Stopped short of saying this would be in the Code but referred to not wanting to put 'code</p>	<p>When resisting amendment 87 at Stage 2, which called for the Code to include clear pathways and guidance on cases of low-incidence high-complexity needs.</p>	<p>In the context of explaining appropriate IDP content:</p> <p>“A child or young person with severe, complex or low incidence needs will likely require specialist input and advice and their IDP is likely to contain contributions from a wide range of agencies and detail a much wider range of interventions”.</p> <p>Also cited as a criterion when deciding whether a governing body or the local authority should be responsible for an IDP.</p>	<p>Para 13.2</p> <p>Para 9.44, 10.42</p>
<p>The then Minister, Alun Davies said:</p> <p>“I have commissioned reviews of the evidence for effective interventions for a range of low-incidence, high-complexity needs, and these will be published as accessible guides for practitioners, to ensure they have informed, evidence-based decisions.”</p> <p>Stopped short of saying this would be in the Code but referred to not wanting to put 'code</p>	<p>When resisting amendment 87 at Stage 2, which called for the Code to include clear pathways and guidance on cases of low-incidence high-complexity needs.</p>	<p>In the context of explaining appropriate IDP content:</p> <p>“A child or young person with severe, complex or low incidence needs will likely require specialist input and advice and their IDP is likely to contain contributions from a wide range of agencies and detail a much wider range of interventions”.</p> <p>Also cited as a criterion when deciding whether a governing body or the local authority should be responsible for an IDP.</p>	<p>Para 13.2</p> <p>Para 9.44, 10.42</p>		

	content' in primary legislation, therefore it could be expected to have some reference to this issue.			
	<p>Summary of stakeholders' views</p> <p>NDCS were critical of the use of the term “likely” in whether a child with severe, complex or low incidence needs would require specialist input, arguing that this would always be necessary.</p> <p>NDCS also highlighted a difference between the draft Code and the Code of Practice in England (2015), which requires assessments of learners with a visual or hearing impairment to include a consultation with a qualified teacher of the visually or hearing impaired. The draft Code includes them in a list of who might be consulted but the NDCS are “really disappointed” that this aspect is not as strong in Wales as in England. The Association of Educational Psychologists (AEP) agreed:</p> <p><i>“You need all the information, not just in terms of reports, but sometimes it’s very helpful, for example, when psychologists are assessing a child with severe hearing impairment, having somebody like a teacher of the deaf there, if signing’s required and so on. That’s really important.”</i></p> <p>Reference was made to the guides commissioned by the Welsh Government on low incidence, high complexity needs. These do not appear to be referred to in the draft Code. CIW highlighted the importance of ensuring that professionals have access to all relevant information that is available, and asked how these guides are to be used.</p>			
	<p>Committee Response (Low incidence high complexity needs)</p> <p>The Committee was disappointed that its call for the Bill to require that the Code provide clear pathways and guidance on cases of low-incidence high-complexity needs was not accepted. We acknowledge that some reference to this has been included in the Code. However, we agree with concerns raised that reference in paragraph 13.2 to the term ‘likely’ is insufficient, and should be strengthened to indicate that this will ‘almost always’ be necessary.</p> <p>The Committee also agrees that the Code should be strengthened to include clearer guidance on who should be consulted when assessing a learner with specific high-complexity needs. For example, we believe an assessment for a learner with a visual or hearing impairment <u>must</u> include a qualified teacher of the visually/hearing impaired, as is the case in England. This principle should be incorporated into the Code to cover specific needs generally rather than provide a specific list where this might apply.</p> <p>Although this may not be an issue for reference within the Code itself, it would be helpful if the Welsh Government could provide details on the latest position on the guides on low incidence high complexity needs and how they are to be used.</p>			

Discussion area 6: Responsibility for IDPs

6A) Responsibility for IDPs		Code to provide clarity on where responsibility for IDPs lies (between LAs and school governing bodies)	WG accepted Rec. 6, CYPE Stage report.	Quote: “A local authority will normally only decide whether a pupil at a maintained school has ALN and prepare and maintain an IDP in instances where the child or young person’s needs are more severe or complex or are of low incidence. The main exceptions are when a child is looked after by a local authority in Wales or the child or young person attends more than one school or other institution (“dual registration/enrolment”) – in these cases, the local authority is usually responsible for decisions and maintaining an IDP irrespective of the needs).”	Para 9.2
				Para 9.19 gives the grounds on which a school may refer a case to the local authority – “not reasonable for it to secure” or it cannot “adequately determine” the ALN. This is in the Act itself.	Para 9.19
				Code lists several criteria which could determine whether it is reasonable or not for a school to be responsible for an IDP.	Para 9.44, 10.42
				Code says local authorities should establish a ‘set of principles’ that could be used to determine where responsibility should lie.	Para 9.45
				WG officials explained it would be difficult to set a national, uniform threshold as LAs’ delegation of SEN funding varies. This is why they are expecting LAs to devise their own	WG Technical briefing, 30

			approach. However, this could be done on a regional basis.	January 2019
	<p>Summary of stakeholders' views</p> <p>There was general consensus that this still requires more clarity and guidance within the Code. SNAP and CIW referred to incorrect messages from some local authorities that there is a distinction between a 'statutory IDP' and 'non statutory IDP', and between a 'funded IDP' and a 'non funded' IDP. The WLGA acknowledged there is some confusion out there.</p> <p>NDCS predicted that the provision for local authorities to establish a set of principles which they will use to decide whether a school or the authority should have responsibility for an IDP, will be 'different everywhere' and 'end up in a postcode lottery'. The WLGA suggested that local authorities themselves are not in favour of this and would prefer for the Code to define these principles, albeit for more specific application at a local level:</p> <p><i>"I must say, local authority officers were really not happy about this, because they were worried, there's a concern, that, as you say, individual authorities might go away and develop their own principles, which would not be legal, which would be challengeable at tribunal, and they don't want that. So, they did say perhaps the code should define these principles, which may be taken away, and kind of—you know, locally, they might be—. But at least—you know, broadly speaking, they would be defined in the code. Welsh Government's response was, 'If you think this won't work in practice, then you need to tell us what you think will.'"</i></p> <p>The different levels of delegation of SEN funding were mentioned, with an inference that this would have to be taken into account if defining an all-Wales set of principles or criteria.</p> <p>The WLGA highlighted the particular difficulties the might be in determining responsibility for an IDP between a local authority and an FEI:</p> <p><i>"Well, I think our biggest issue would be that it's the school, local authority responsibility of the IDP thing, the where, who, how is that decided, how is that going to work, and even more so actually between local authorities and FEIs. Because we've said all along that local authorities have no responsibility for FEIs, they have no funding for the post-16 learners attending FEIs, they have no control over FEIs and, as you say, we have now this potentially slightly bureaucratic system where local authorities will have to go to Welsh Government Ministers to ask them to tell an FEI to take back an IDP. Potentially, all those decisions are appealable."</i></p> <p>The Welsh Government has powers to make regulations about transferring an IDP from a local authority under 37 of the ALN Act and intervention powers under section 57 of the Further and Higher Education Act 1992. In its response to</p>			

	recommendation 8 of the Committee’s Stage 1 report, the Welsh Government said that, in the context of ALN, this could apply to instances where an FEI fail to meet its duties under the ALN Act or was acting unreasonably with respect to its duties under the Act.			
	Committee Response (Responsibility for IDPs) The Committee welcomes the guidance in the Code about where responsibility for IDPs lies (between LAs and school governing bodies). However, there was general consensus across the working group that greater clarity and guidance on this was still required within the Code. In particular – the Committee agrees with concerns that provision for local authorities to establish a set of principles, which they will use to decide whether a school or the authority should have responsibility for an IDP, will end up with significant variation in practice across each local authority. We believe the Code itself should define the set of principles local authorities should use when deciding whether they, as opposed to a school, take responsibility for an IDP. (In making this recommendation we acknowledge that such an all-Wales set of principles would need to take into account that local authorities have different arrangements for delegating SEN/ALN funding.) The Committee is concerned that there is very real potential for deadlock in cases where an FEI does not take responsibility for assessing a learner and any subsequent provision, and the local authority has no power to direct an FEI in the same way it has in regard to a school. We believe that the Code should set out how Welsh Government would use the powers it has available to ensure there is no such impasse caused by disagreements between local authorities and FEIs over who should take responsibility for an IDP.			
Discussion area 7: Use of Educational Psychologists				
7A) Use of Educational Psychologists	Code to set out the mechanics of Educational Psychologists’ role in the new ALN system, including where cases are referred by schools to LAs.	WG accepted Rec. 11, CYPE Stage 1 report.	Referred to a number of times in the draft Code. They have a role in assessment, identifying necessary provision, advising on responsibility between schools and LAs for IDPs. Specifically tasked with advising on: ▪ “the educational, psychological or other features of the case which appear to be	Paras 8.9, 9.55, 11.5, 12.9

				<p>relevant to the child’s educational needs (including their likely future needs);</p> <ul style="list-style-type: none"> ▪ how those features could affect the child’s educational needs; and ▪ the provision which may be appropriate for the child in light of those features of their case, whether by way of ALP or other provision. <p>Also listed as one of the people an LA must consult when keeping its ALN provision under review.</p>	Para 5.14
	<p>Summary of stakeholders’ views</p> <p>The Association of Educational Psychologists (AEP) said that, while educational psychologists (EPs) have an important role to play in assessment and identifying what provision might be necessary, their involvement should be proportionate to the level of ALN:</p> <p><i>“EPs will only be involved in a certain number of IDPs. We wouldn’t be involved in those that, I suppose, currently would be at school action, or we won’t be involved, certainly, in a lot of those. We would certainly be involved where a child has much more complex needs or where our advice is needed to perhaps clarify for the school where they should go.” (...)</i></p> <p>Referring to the likely greater involvement for EPs with FEIs, the AEP alluded that there will be capacity issues, which the WLGA agreed could potentially log jam the system if there is an overreliance on referring to or consulting an EP. The AEW said:</p> <p><i>“One of my concerns would be the role now with FEIs because we haven’t been so involved, but I can see that that’s going to be a growing demand on our services, and do we have the capacity to deal with that? Right now, we’re being faced with—in certain areas, where there’s been restructuring, ed psych posts have been lost, and that is a major concern, a capacity issue.”</i></p> <p>The WLGA added:</p> <p><i>“I think we’d agree that there’s an overreliance on referring something to or consulting an ed psych before you do something, not least because, as you say, they’re fairly thin on the ground. (...)</i></p>				

	<p><i>We would probably query whether it is necessary for all these ‘must consult an ed psych before doing something’ are necessary and appropriate. (...)</i></p> <p><i>The focus needs to be on, as you say, where it is necessary for an ed psych to be involved in developing the IDP. That’s the key thing, really. There may be other consultations, possibly, that you might need to have before a school referred or asked a local authority to reconsider, or an FEI did, but it may not necessarily need an ed psych.”</i></p> <p>The draft Code says that a school or FEI <u>should</u> consult or <u>must consider</u> consulting an EP, whereas if a local authority is considering a case, it <u>must</u> do so. This is likely to be because cases referred for a local authority’s consideration are likely to be more complex and/or severe. The AEP explained that ‘consult’ would not necessarily mean an EP undertaking a full assessment in each case:</p> <p><i>“But the word is ‘consult’, and if there’s been prior involvement at whatever level—and usually we do know of the children with the higher level of need—often when we’re going into schools, teachers will ask us about other children as well, perhaps in a more informal way. So, we’ve usually got a good idea of what is happening. But, as I say, when they say that the local authority must consult, to me that would mean getting—you know, we would have certain information, not necessarily that we’ve always got to go out there and do a full assessment, which obviously is time-consuming. Because we could look at what the school’s providing and what other agencies are providing and come to some kind of conclusion based on that kind of information as well as talking to parents and the child.”</i></p>
	<p>Committee Response (Use of educational psychologists)</p> <p>The Committee welcomes the detail in the Code that sets out the mechanics of the educational psychologist role in the new ALN system, including where cases are referred by schools to LAs. The Committee agrees with views expressed that educational psychologists have an important role to play in assessment and identifying what provision might be necessary, but their involvement should be proportionate to the level of ALN. However, the Committee believes the draft Code strikes the right level of input and involvement of educational psychologists.</p> <p>While this may not be a matter for the Code itself, the Committee is concerned about the availability of educational psychologists, and their capacity to meet any heightened demand should the implications of the Act (and the Code) increase referral to educational psychologists. We urge the Welsh Government to ensure there is appropriate workforce and capacity planning with regard to educational psychologists, as indeed should be the case for any relevant professionals who will have a role in the new system.</p>

	The Committee would also like to highlight the view of the Association of Educational Psychologists that in relation to the Code ‘consult’ would not necessarily mean an educational psychologist undertaking a full assessment in each case.				
Discussion area 8: Individual Development Plans (including transport)					
8A) Timescales for assessments and IDPs	Act requires the Code to stipulate timescales for undertaking assessments and preparing IDPs.	WG accepted Rec. 5, CYPE Stage 1 report. Bill amended at Stage 2.		Code sets 12 week window for the LA to decide and notify whether learner has ALN from it being brought to their attention and prepare any resultant IDP. For schools, there is a timescale of 35 school days. A NHS body has six weeks from the point of referral to comply with its duty to consider if there is a relevant treatment of service that is likely to be of benefit. (A general exception to these timescales applies where they are impractical or there are circumstances outside their control. However, relevant persons must still act ‘promptly’.)	Para 8.16, 8.28 Para 9.14, 9.24 Para 15.31 Paras 1.33 to 1.35
	Summary of stakeholders’ views Several stakeholders (NDCS, SNAP, WLGA) felt that the Code should show the timescales more clearly , for example in a diagram, table or incorporated into the flowcharts already in the draft Code. There was also some concern from NDCS and SNAP that the general exception whereby governing bodies, local authorities or health boards could exempt themselves from the timescales might be used as a ‘get out clause’ . (Note that the draft Code still requires them to act “promptly” even where the exceptions apply.) The WLGA did not have a specific view on the timescales but said that local authorities would probably argue they were too short . The 12 week timescale from the point of being made aware of the possibility that a learner has ALN to the completion of an IDP is significantly shorter than the 26 week period at present.				

	<p>The Royal College of Speech and Language Therapists (RCSLT) said, where they had had some prior involvement with the child, NHS bodies would usually be able to comply within the 6 week period that they are afforded, but that this may take longer if it was a completely new case to them. They referred to an NHS referral to treatment target of 14 week which would have to be met in any case. In their written comments, the RCSLT indicated that the NHS' obligations to the general population and to 'care for those with the greatest need first', as well as other Welsh Government targets, may result in the 6 week period not being met in some cases.</p> <p>The WLGA highlighted that if an NHS body took up 6 weeks of the total 12 week period, then this would leave little time for local authorities.</p> <p>SNAP said that families would be very happy with the shorter timescales, although acknowledged that schools (who have 35 school days) were concerned about being able to comply.</p>			
	<p>Committee Response (Timescales for assessments and IDPs)</p> <p>The Code clearly sets timescales for undertaking assessments and preparing IDPs, but the Committee agrees with views expressed that the Code should show the timescales more clearly, and visually show the applicable timescales, for example in a diagram, table or flowchart. Clear, easy to access information on the timescales is imperative.</p> <p>The Committee welcomes the aspirations of setting shorter timescales for the new ALN system, compared with the SEN system at present. The Committee is also satisfied with the 'exceptions' as articulated within the Code, together with the duty to act promptly. However, the Committee has some concerns that if the shorter timescales are not realistic and deliverable, this could lead to the exceptions being used more excessively.</p> <p>Shorter timescales are certainly welcome but only if they can be consistently relied upon. The Committee would therefore welcome the Government's rationale for setting the timescales, and assurances on their deliverability and for this to be included in the Code as a guide.</p>			
8B) IDP Template	<p>The Code should provide a mandatory template for IDPs.</p>	<p>WG accepted Rec. 12, CYPE Stage 1 report.</p> <p>Bill amended at Stage 2.</p>	<p>Code provides mandatory template.</p> <p>Also a mandatory template for LAC IDP.</p> <p>Non-mandatory template for NHS contribution to IDP</p>	<p>Para 13.6, Annex A</p> <p>Annex B</p> <p>Para 15.33, Annex C</p>

	<p>Summary of stakeholders' views</p> <p>Stakeholders are generally happy that the draft Code includes a template for the IDP, in line with an amendment to the Bill during its passage.</p> <p>However, NDCS would like to see the template:</p> <ul style="list-style-type: none"> • include contact details or relevant staff; • Prevent against the use of vague descriptions of provision entitlements; • Reference to transport and accommodation; • Some guidance within the template itself • Make obvious that the text boxes are expandable and users of the template can include as much content as necessary. <p>NDCS were also concerned that Annex C, the form for health professionals, does not encourage them to outline any support which they believe is likely to be of benefit but they are unwilling to fund, nor to explain why a decision has been made not to provide health support.</p>			
	<p>Committee Response (IDP template)</p> <p>The Committee welcomes that the Code provides a mandatory IDP template, a mandatory template for LAC IDP, and also a non-mandatory template for NHS contribution to IDP. However, the Committee calls on the Welsh Government to consider if the templates could be strengthened by the additional information as set out in the summary of stakeholder views. We believe there is particular merit in requiring health bodies to include detail of any support that is likely to be of benefit but they are unable or unwilling to fund, as well as an explanation why they have decided not to offer any provision.</p>			
<p>8C) Transport</p>	<p>Code to consider how travel needs can be incorporated into IDPs. WG said it would explore how the Code could make the necessary links between the two.</p> <p>Cabinet Secretary, Kirsty Williams, committed in writing and confirmed in Plenary (November</p>	<p>WG accepted Rec. 13, CYPE Stage 1 report.</p> <p>Correspondence 17 Nov 2017 and WG resistance to</p>	<p>Code states that an IDP <u>may</u> include additional sections to mandatory sections in the IDP “for example transport”.</p> <p>Quote: “Those preparing or maintaining IDPs for children or young people might find it helpful to record in an additional section of the IDP any arrangements for the child’s or young person’s travel between their home and the</p>	<p>Para 13.8</p> <p>Para 13.74</p>

	<p>2017) “to make the necessary revisions to the learner travel guidance and to include, within the ALN code, an appropriate degree of guidance on the place of transport considerations within IDPs, including the process of producing them”.</p>	<p>amendment 80 at Stage 2 and amendment 54 at Stage 3.</p>	<p>education institution. This may be particularly helpful in some cases, for example, if it informs the delivery of ALP.”</p> <p>Code also states that when preparing an IDP, travel arrangements “might need to be considered”. It refers to the Learner Travel (Wales) Measure 2008 and says that, if so, this should be discussed with the LA’s transport officers.</p> <p>WG officials explained that the Code only gives guidance on functions under the ALN Act and not on other legislation such as the Learner Travel Measure.</p> <p>The consultation document sets out how the WG proposes to revise the Learner Travel Guidance to require that, when LAs assess learners’ travel needs in order to consider providing free or assisted travel, they must have regard to whether they have disabilities or learning difficulties The consultation asks whether this is sufficient.</p>	<p>Para 13.76</p> <p>WG Technical briefing, 30 January 2019</p> <p>Paras 1.60 to 1.68, WG consultation document</p>
	<p>Summary of stakeholders’ views</p> <p>NDCS and SNAP both argued that the Code should do more to ensure transport is considered and provided for, where necessary, in IDPs. NDCS said:</p> <p><i>“This does absolutely nothing to allay the concerns that we had. ‘May’ include additional research—it’s so weak. As far as I can see, if you say, ‘This child cannot access their local school because the provision isn’t adequate, and therefore we have to send them for this specialist provision a couple of local authorities over’, then transport has got to be a part of that, because otherwise you can’t get to the provision. So I have no idea—. It infuriates me, to be honest, as to why it’s not more firmly in the code.”</i></p>			

	<p>The Welsh Government says in its consultation document that it will consult on changes to the <i>Learner Travel Statutory Provision and Operational Guidance (2014)</i> ‘in due course’. The intended changes outlined only advise that local authorities <u>may</u> use their <u>discretionary</u> powers, although they <u>must</u> have regard to the needs of learners with learning difficulties.</p> <p>NDCS point out in their written comments that this review/consultation has not yet taken place and that at present there is no statutory duty in the Learner Travel guidance on local authorities to provide free transport for post-16 learners with ALN.</p>			
	<p>Committee Response (Transport in IDPs)</p> <p>The Committee is pleased that the Code states that an IDP may include additional sections to the mandatory sections in the IDP “for example transport”. However, the Committee agreed with concerns raised that the Code should do more to ensure transport is considered and provided for, where necessary, in IDPs. The Committee therefore believes that the Code should make more concrete, definitive references to transport and that the final version incorporate any enhancements arising from the forthcoming consultation on the revised Learner Travel guidance.</p>			
8D) Interim support while IDP being prepared	<p>Section 47(3), inserted into the Act during its passage, requires the Code to include guidance on how to meet learners’ ALN in the meantime while an IDP is being prepared for them.</p>	<p>WG accepted amendment 61 at Stage 3.</p>	<p>Quote: “If a pupil at a maintained school in Wales has ALN but an IDP is not being maintained for them, the school must, in exercising its functions in relation to the school, take all reasonable steps to secure that the ALP called for by the pupil’s ALN is made.</p>	<p>Paras 9.27 to 9.33</p> <p>Paras 10.26 to 10.31 (for FE)</p>
	<p>Summary of stakeholders’ views</p> <p>No concerns raised.</p>			
	<p>Committee Response (Interim support while IDP being prepared)</p> <p>The Committee is satisfied that the Code includes guidance on how to meet learners’ ALN in the meantime while an IDP is being prepared for them – as required by the Act. No changes are needed to the Code in this regard.</p>			

Discussion area 9: Proportionality of ALN duties

<p>9A) Proportionality of ALN duties</p>	<p>Code to provide for proportionality where a learner is only enrolled on a course of very little intensity in the way that the duties on an FEI or local authority apply in such cases.</p> <p>The Minister, Alun Davies, said it would not be right “to allow governing bodies to make a subjective judgement that effectively denied a learner their right to receive a statutory IDP and the provision it would set out”. However, he added that the Code would clarify the issue of proportionality.</p>	<p>When resisting amendment 81 at Stage 2.</p>	<p>The Code does not directly address this, although states:</p> <p>“The local authority, when considering the young person’s reasonable needs for education and training and for ALP, may take into account the compatibility of alternative options with the avoidance of unreasonable public expenditure.”</p> <p>The Code also discusses FEIs’ duties to take all reasonable steps to secure ALP for a student with ALN but without an IDP.</p> <p>WG officials explained during the technical briefing that this would apply where a learner was enrolled on a course of limited duration/intensity and it is not practical (or indeed necessary) to complete the full IDP process in order to satisfy the requirement to take all reasonable steps.</p>	<p>Para 12.36</p> <p>Paras 10.26 to 10.31</p>
	<p>Summary of stakeholders’ views</p> <p>NDCS and CIW were concerned that any reference in the Code about duties only being proportionate may provide FEIs with too much of an exemption. Therefore, stakeholders were not particularly concerned that the issue of proportionality is not directly addressed in the draft Code. The Welsh Government’s approach appears to be that any issue regarding proportionality can be covered by the reasonable steps duty under section 47 of the Act and paragraphs 10.26 to 10.31 of the Code.</p> <p>For NDCS and CIW, the issue is more one of ensuring that the appropriate links are made with anticipatory duties to make reasonable adjustments and the Equality Act 2010.</p>			

<p>Committee Response (Proportionality of ALN duties)</p> <p>The Committee notes that the Code does not directly provide for proportionality where a learner is only enrolled on a course of very little intensity in the way that the duties on an FEI or local authority apply in such cases. We do, however, welcome the reference to this in paragraph 12.36, and are satisfied that the duty on FEIs to take all reasonable steps to secure the necessary provision for a student who may have ALN but does not have an IDP, enables proportionality in the way FEIs fulfil their duties.</p> <p>Linked to the above, we also agree with the view that the Code should make appropriate links with the duties/obligations of FOIs to make reasonable adjustments under the Equality Act 2010.</p>				
Discussion area 10: Health Boards				
10A) Health board roles	Code to provide clarity on the Designated Education Clinical Lead Officer (DECLO) and health co-ordinator roles within each healthn board.	WG accepted Recs. 23 and 24, CYPE Stage 1 report.	<p>Code provides relatively detailed overview of the DECLO role but not on the second ‘health co-ordinator’ role, the concept of which the Welsh Government introduced during scrutiny of the Bill and included within the Explanatory Memorandum to the final version of the Bill as passed.</p> <p>The Welsh Government’s express intention was that the DECLO would operate at a senior, strategic level and that day to day functions would be undertaken by a ‘health co-ordinator’. However, this role does not appear to be discussed in the draft Code.</p> <p>WG officials explained following the technical briefing that the second ‘health co-ordinator’ role had been explored as a possible means for health boards to support the DECLO role but it was never adopted as a requirement. WG and stakeholders have since discounted the option,</p>	<p>Paras 15.37 to 15.53</p> <p>WG Technical briefing, 30 January 2019</p>

				or at least are not minded to recommend it within the Code.	
	<p>Summary of stakeholders' views</p> <p>The Royal College of Speech and Language Therapists explained that the health boards' fulfilment of their duties will be co-ordinated by the DECLO, who has the strategic role established by the Act. It was therefore agreed that, how exactly health boards manage that, whether through a second health co-ordinator role or not, is an operational matter for them.</p>				
	<p>Committee Response (Health board roles)</p> <p>The Committee is satisfied that the Code provides a relatively detailed overview of the DECLO role but notes that the Code does not appear to contain any detail on the second 'health co-ordinator' role discussed by the Welsh Government during the passage of the Bill. The Committee assumes therefore that there has been a shift away from the second health co-ordinator approach, between the final Explanatory Memorandum to the Act (November 2017) and the draft Code (December 2018).</p> <p>Although the Code does provide details of the DECLO role, it is vital that the Code provides sufficient and appropriate guidance on how health boards can ensure that the DECLO is adequately supported and is able to focus on the strategic nature of the role and is not unduly encumbered by day to day administrative tasks.</p>				
10B) Timescale for providing information and help		Code to set a timescale by which bodies (such as health boards) must comply with a request from an LA for information or other help.	In rejecting Rec. 8 of the CLA Committee at Stage 1, the WG committee said that the Code, rather than the face of the Act, was the best place to specify timescales.	Code states that a relevant person under the Act must comply with a local authority's request for information or other help within 6 weeks unless due to circumstances beyond their control.	Para 15.12

	<p>Summary of stakeholders' views</p> <p>The Royal College of Speech and Language Therapists said it did not have additional comments to those made under discussion area 8 on the timescales for IDPs. These were that for children and young people whom a health board already knew about, it would probably be able to comply within the six weeks but for others it would take longer (although there is a 14 week referral to treatment target in the NHS).</p> <p>The RCSLT's written evidence expands on their comments that there are several reasons why health bodies may not be able to comply with the 6 week timescale.</p> <p>Committee Response (Timescale for providing information and help)</p> <p>The Committee welcomes that the Code does set a timescale by which bodies (such as health boards) must comply with a request from an LA for information or other help. However, as with the Committee's response to timescales in section 8, the Committee is concerned that if the timescales are not realistic and deliverable, for example where the NHS does not already have any information or involvement about a learner, this could lead to the exceptions being excessively used.</p> <p>The Committee would therefore welcome the Government's rationale for setting the timescales, and assurances they are deliverable and for this to be included in the Code as a guide.</p>
<p>10C) Section 20 duty</p> <p>(not directly related to a WG undertaking but included here as relevant to this discussion area)</p>	<p>This issue does not relate to a specific undertaking given by the Welsh Government during the passage of the Bill, although arose during this discussion area. Under section 20 of the Act, NHS bodies have a duty to consider if there is a <u>'relevant treatment or service that is 'likely to be of benefit'</u> in addressing the learner's ALN. If so, they must secure that treatment or service for the learner.</p> <p>Summary of stakeholders' evidence</p> <p>The Royal College of Speech and Language Therapists (RCSLT) discussed various wording used by the draft Code in interpreting the phrase <u>'relevant treatment or service that is 'likely to be of benefit'</u>. RCSLT cited the references in the draft Code (paras 1.66 and 15.24) to something 'normally provided' by the NHS as well as the reference to 'evidence-based recommendations on effective interventions' in paragraph 15.46.</p> <p>The RCSLT said they preferred these interpretations of how health bodies would assess what provision should be made to 'likely to be of benefit' which is the term used in the Act. They said without this qualification, 'likely to be of benefit' "would be huge and may involve things that would, could and should not be provided by the NHS".</p>

	<p>(This is addressed by the other part of the definition in section 20 of the Act – ‘relevant treatment or service’. The draft Code (para 15.25) states this means something “an NHS body would normally provide as part of the comprehensive health service in Wales”).</p> <p>The RCSLT state in their written comments that principles of prudent health care require health professionals to base their decisions on ‘clinical need’ not on ‘likely benefit’. ‘Clinical need’ balances positive change outcomes for a patient with resource implication and cost. The Code cannot change the wording of section 20 of the Act, although it can give guidance on how it is interpreted. The RCSLT would prefer an interpretation along the lines of clinical need and would also welcome use of the term ‘evidence-based’. This was discussed with the then Minister during Stage 1 who said that use of the term clinical need was not needed in the Bill as this is already inherent in NHS decision-making.</p> <p>SNAP came from a different perspective to RCSLT, arguing that the draft Code should focus on the learner’s individual needs rather than simply what is normally provided:</p> <p><i>“When we’re talking about low-instance but high-impact things where we don’t normally provide a service within this authority or this health board, it could be that that’s provided elsewhere. So, I think you can’t just have ‘normally provide’, because there are always exceptions. Children are always individuals with individual needs, and education law looks at the child as an individual in context and says, actually, that ‘normally provided’—people can provide beyond that. It’s not good enough that it’s ‘normally provided’ or ‘it’s our policy’; they need to be looking at that individual child and providing exceptions.”</i></p> <p>The RCSLT pointed to the significance of taking evidence-based decisions, which would account for the individual nature of cases:</p> <p><i>“You can read about something that’s been amazing for one person in one case, and is that something that’s the duty to be provided by the NHS? That’s the question, isn’t it? So, then it would be what’s normally provided, and obviously we’re trying to ensure that everything that we provide is evidence-based, which fits in with the intended outcomes, because what we want to say is: there’s an evidence base that says that the outcome that we want to achieve is going to be achieved by this intervention.”</i></p>
	<p>Committee Response (Section 20 duty)</p> <p>This issue did not relate to a specific undertaking given by the Welsh Government during the passage of the Bill, but concerns were expressed during the working group’s considerations relating to Section 20 of the Act, where NHS bodies have a duty to consider if there is a relevant treatment or service that is ‘likely to be of benefit’ in addressing the learner’s ALN. If so, they must secure that treatment or service for the learner. The specific concerns are highlighted in the</p>

	stakeholders views section above. In considering this, the Committee is satisfied that the Code provides sufficient detail on how a ‘relevant treatment or service that is likely to be of benefit’ is interpreted and applied. However, we draw the Welsh Government’s attention to the concerns raised so they can form part of its consideration of the draft Code.			
Discussion 11: Welsh Language Provision				
11A) Eleventh aim: Bilingual services	The legislation to adopt the delivery of bilingual ALN services as an eleventh core aim, in addition to the ten core aims set out in the EM to the Bill as introduced.	WG accepted Rec. 36, CYPE Stage 1 report.	The EM to the Act as passed includes ‘A bilingual system’ as an eleventh aim for the legislation and new ALN system (para 3.17). The Code adopts as one of its principles: “A bilingual system where all reasonable steps are taken to deliver ALP in Welsh for children and young people who require support through the medium of Welsh, with scope for increasing the delivery of ALP in Welsh over time.” There is no dedicated chapter within the Code to how Welsh-medium ALN services should be provided. The approach appears to be one of seeking to integrate guidance in this regard into the respective chapters.	Para 3.17, EM
				Para 2.2 Draft Code
	Summary of stakeholders’ views The Welsh Language Commissioner’s Office (WLCO) were unable to attend the Working Group meeting on 13 February 2019. However, they have submitted written comments against of the three issues in this discussion area. The WLCO highlight paragraphs 2.24, 2.25 and 2.26 which outline the requirements in terms of the Welsh language and elaborate on the principle set out at paragraph 2.2. The WLCO believes that several aspects of the draft Code could be improved but do not give a firm view whether this would be best served by a dedicated chapter within the Code. However, they say that good practice guidance, produced			

	<p>in 2007 and endorsed by the Royal College of Language Therapists, for speech and language therapists when working with clients wishing to use minority languages could inform such enhancements of the Code. The Royal College of Speech and Language Therapists later confirmed that it is currently looking to revise this document and develop a version specifically available for the Welsh bilingual context.</p> <p>The Royal College of Speech and Language Therapists commented on the importance of conducting assessments in the child or young person’s first language. In relation to languages other than Welsh and English the Royal College said:</p> <p>“Absolutely, and the assessments can be a problem, but we book interpreters from a speech and language therapy perspective, and have those in on the assessments. It’s a challenge, there’s no doubt about it, but yes, absolutely.”</p> <p>The Royal College confirmed later that it would endeavour to provide assessments by Welsh speaking therapists for Welsh-speaking children and young people. An interpreter for Welsh language assessments would be very much the last resort.</p> <p>The Children’s Commissioner’s Office suggested that interpreters could be used while the workforce is being developed if capacity is an issue. On this specific point, the Welsh Language Commissioner’s Office (in a further written submission) said that it should be made clear that the use of interpreters is not the preferred option – i.e. that the aim should be to have staff with adequate Welsh language ability so that it is not necessary to rely on interpreters. They acknowledged that in the absence of staff with Welsh language skills that this may be necessary – but it is a significant intervention and should be avoided if possible.</p>
	<p>Committee Response (Eleventh aim: Bilingual services)</p> <p>The Committee welcomes that the Code has adopted as one of its principles “A bilingual system where all reasonable steps are taken to deliver ALP in Welsh for children and young people who require support through the medium of Welsh, with scope for increasing the delivery of ALP in Welsh over time”.</p> <p>However, the Committee agrees with views expressed that the Code should be clearer on Welsh language provision, and believe it should include a specific chapter containing in one place the guidance on delivering the ALN system through the medium of Welsh.</p> <p>As suggested by the Welsh Language Commissioner, the Committee also believes that the Welsh Government should consider drawing on the Royal College of Language Therapists’ 2007 guidance on minority linguistics (and the revised version being developed when available) to see how it can help improve relevant aspects of the draft Code.</p> <p>The Committee agrees that the Code should refer to the use of interpreters to facilitate face to face meetings between providers and relevant bodies and learners and their families in their first language. We also agree with the Welsh</p>

	Language Commissioner's Office and Royal College of Speech and Language Therapists that, if included, the Code should make clear that the use of Welsh language interpreters is not the preferred option – with the aim being to have staff with adequate Welsh Language ability so that it is not necessary to rely on interpreters. While this was raised with the Committee in the context of discussions on the eleventh aim, this could apply more generally to all aspects of the ALN process (see also discussion points 11B, 11C and 11D).			
11B) Decisions over ALP in Welsh	Code to provide further guidance on what reasonable steps governing bodies, LAs and health boards must take to provide services in Welsh with regard to the learner's wishes.	When rejecting Rec 33, CYPE Stage 1 report, which called for amendments to the Bill to place a presumption on services being provided in Welsh where this is requested.	<p>The Code, states, in the context of defining mandatory content of an IDP:</p> <p>“A body preparing, maintaining or reconsidering an IDP has a duty to consider whether ALP should be provided in Welsh and if it decides that it should, this must be specified in the IDP and the body maintaining the IDP then has a duty to take all reasonable steps to secure that the ALP is provided in Welsh.”</p> <p>In its guidance on duties on health bodies, the Code states:</p> <p>“If the NHS body identifies such a treatment or service it must:</p> <ul style="list-style-type: none"> ▪ decide whether the treatment or service should be provided to the child or young person in Welsh; and ▪ take all reasonable steps to secure that the treatment or service is provided in Welsh, if it decides that the treatment or service should be provided to the child or young person in Welsh.” 	<p>Para 13.40</p> <p>Para 15.28</p>

Summary of Welsh Language Commissioner's views

The WLCO highlights that ALN is “an area where making provision in accordance with the language needs of individuals is absolutely critical to the quality and effectiveness of the provision itself”.

The WLCO refer to the paragraph in each of the chapters regarding duties on local authorities (paras 8.22 and 8.33), schools (para 9.21 and 9.36) and FEIs (para 10.20 and 10.34). The duties, which are founded in the Act, are that relevant bodies must consider whether ALP should be provided in Welsh; if they decide that it should, they must specify that in the IDP; and they must take all reasonable steps to secure that the ALP is provided in Welsh.

The WLCO raise **three issues** in this context:

1) The WLCO believe the Code should provide further clarification regarding **who makes the decision** whether ALP should be provided in Welsh and **on what information they base that decision** on. The WLCO highlights:

“Neither the Act nor the Code offers instruction to relevant bodies on how to decide upon the language of provision and there is no advice on what should be considered in making such a decision. In making such judgements, it is possible that factors such as the language spoken at home, the medium of education or childcare, and, in the case of very young children, the medium of education which the parents have chosen for the child, should be considered.”

2) The WLCO reiterate their position that the Act should have stated where it is decided that ALP should be made through the medium of Welsh, providers should have an absolute duty to secure this rather than a “conditional duty”, as the WLCO describe the ‘all reasonable steps’ test. They call for the Code to provide **more guidance on what constitutes ‘reasonable steps’**, and point to undertakings given by the then Minister when resisting relevant recommendations and amendments.

The WLCO write:

“The problem with this conditional duty is that the relevant bodies are free to interpret what constitutes ‘reasonable steps’ and thus it’s conceivable that some would construe ‘reasonableness’ in terms of their existing capacity to provide through the medium of Welsh. We do not consider it acceptable that those bodies who are under a statutory obligation to ‘take all reasonable steps’ are themselves responsible for deciding whether they have complied with this duty or not.”

Whilst the WLCO accept that making Welsh-medium ALP may be difficult in some parts of Wales, they believe that setting high expectations through legislation is what drives change. The issue of how to ‘future proof’ the Act and raise the requirements for Welsh-medium provision in accordance with the development of workforce capacity was discussed during debate over amendments during the passage of the Bill. The prevailing position was a Welsh Government amendment to the Bill so that section 89 of the Act requires the Welsh Ministers to arrange a review of the sufficiency of Welsh-medium ALP, publishing reports on the outcomes of these reviews every five years. The draft Code (paragraph 5.6)

	<p>indicates that section 63 of the Act, which obliges local authorities to consider the sufficiency of Welsh-medium ALP and workforce capacity as part of its duty to keep ALP under review, will enable the Welsh Ministers to monitor the ‘all reasonable steps’ clause.</p> <p>The WLCO acknowledges that the Act “aims to set high expectations ... but not to the extent that it becomes unrealistic”. Their understanding is that the long term intention is to remove the ‘all reasonable steps’ fallback and move towards a fully bilingual ALN system. However, the WLCO wish to see “clear guidance in the Code regarding the meaning of ‘all reasonable steps’ for the period until that long term aim is realised.</p> <p>3) Section 70(2) and paragraph 26.5 of the draft Code list the matters about which appeals can be made to the Education Tribunal for Wales. Whether or not an IDP states that ALP should be provided in Welsh is listed, although failure to take all reasonable steps where this is stated in the IDP is not listed as an appealable matter. The WLCO write:</p> <p><i>“Neither the Code nor the Act outline a clear and accessible process for making relevant bodies accountable for not complying with their duty. It is not clear what avenues are open to individuals if they feel that the relevant body has not taken reasonable steps to provide ALP through the medium of Welsh. In the absence of a clear and accessible process, providers will be less likely to comply with the duty to take all reasonable steps in the first place.”</i></p> <p>As it is does not appear possible under the Act to appeal to the Tribunal against a relevant body’s failure to take reasonable steps, the WLCO call for the draft Code to explicitly state that alternative means of resolving disagreements, including complaints to the Public Services Ombudsman for Wales, complaints to the Welsh Ministers, or judicial review, can be used to challenge providers of whether they have taken all reasonable steps to make ALP in Welsh.</p> <p>Summary of other stakeholders’ views</p> <p>NDCS called for more emphasis to be placed on family choice, while SNAP echoed the WLCO’s call for more guidance on what constitutes reasonable steps:</p> <p><i>“I think they could put some examples of what ‘reasonable’ might mean. For example, these cases often come to us, and [say] ‘My child doesn’t speak English. Why would they have an assessment, already by a stranger, to put them at unease?’ When we go back to that local authority, I would expect them to go to their neighbouring authorities if they don’t have the provision for that assessment there. I would think it perfectly reasonable for them to purchase that from their neighbouring authority or from within their consortia or, in extremis, from elsewhere. I think that could be put in there as an example of what ‘reasonable’ would mean. Because ‘reasonable’ could mean, ‘Well we’ve tried, we’ve looked, we’ve asked, but there’s no availability. We’ve made our best efforts, but—’”</i></p>
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	<p>The WLGA suggested that costs may have a bearing on what is deemed as ‘reasonable steps’:</p> <p><i>“you can’t magic Welsh-speaking provision out of nowhere. ... you would expect authorities to attempt to get, buy in provision, borrow provision or whatever, but again there’s potentially a funding element to that as well. Everybody wants the families and children to be able to choose the language—quite right. However, I’m just saying, in practice, there may be, for some while at least, an issue about the availability of that provision.”</i></p> <p>The Association of Educational Psychologists also highlighted resource and capacity implications, whilst referring to the efforts being made to increase the number of Welsh-speaking educational psychologists.</p>
	<p>Committee Response (Decisions over ALP in Welsh)</p> <p>During scrutiny of the ALN Bill, the Minister gave the commitment that the Code would provide further guidance on what reasonable steps governing bodies, LAs and health boards must take to provide services in Welsh with regard to the learner’s wishes. Although some detail has been placed in the Code, the Committee agrees with a number of the concerns raised in relation to the detail in the Code. The detail of the specific concerns raised is included in the Stakeholders View section above.</p> <p>The Committee believes that the Code should give greater guidance about the grounds on which providers should make decisions over whether provision should be made in Welsh, and at what level (of seniority or expertise) such decisions are made within organisations.</p> <p>We also believe that the Code should give greater guidance on what is meant by ‘all reasonable steps’, which providers must take when securing that provision is made in Welsh, once this is stated in the IDP. Linked to this, but not necessarily for inclusion in the Code itself, the Welsh Government should clarify whether its long term aim is to develop workforce capacity to the extent to which the ‘all reasonable steps’ fall back can be removed.</p> <p>The Committee also believes that the use of interpreters in this area should be explored. Please refer to the full recommendation on this issue in discussion point 11A.</p> <p>The Committee is concerned that, while learners and their families can appeal to the Tribunal if their IDP does not state that ALP should be through the medium of Welsh, where the IDP does state ALP should be in Welsh whether or not a relevant body has taken all reasonable steps to secure that ALP is not appealable to the Tribunal. This appears to be an anomaly or loophole in the Act. We therefore believe that the Code should make clear what options are available to learners/families wishing to challenge what they regard as a failure to take all reasonable steps in this regard.</p>

11C) Advocacy services in Welsh		Cabinet Secretary, Kirsty Williams, said the Code will provide guidance over local authorities' responsibilities to ensure advocacy services are available in Welsh where requested.	When resisting amendment 66 at Stage 3 which would have meant that any advocacy services should 'normally' be provided in Welsh where requested.	This is not covered in chapter 25, which is the chapter dealing with independent advocacy services. Nor does it appear to be covered elsewhere in the Code.	
	<p>Summary of stakeholders' views</p> <p>The WLCO say that they consistently raised concerns during the Bill's passage regarding the right of individuals to receive advocacy services in Welsh. They refer to the Welsh Government's resistance to amendments and assurances that this would be covered in the Code. They say that, despite this, there is no such guidance in chapter 25 of the draft Code.</p> <p>The WLCO report that the Welsh Government believes the Welsh Language Standards (No. 1) Regulations 2015 place an obligation on local authorities to provide advocacy services through the medium of Welsh. The WLCO disagree with the Welsh Government's interpretation as, whilst it is possible that initial arrangements and meetings could be subject to the standards, the advocacy service itself would not be fall under the definition in the legislation.</p>				
	<p>Committee Response (Advocacy services in Welsh)</p> <p>During scrutiny of the Bill, the Cabinet Secretary said the Code would provide guidance over local authorities' responsibilities to ensure advocacy services are available in Welsh where requested. The Committee is therefore disappointed that this does not appear to be covered in the Code.</p> <p>The Committee's notes the concerns from the Welsh Language Commissioner, and agrees that it is not clear whether the Welsh Language Standards (No. 1) Regulations 2015 place an obligation on local authorities to provide advocacy services through the medium of Welsh. We therefore believe the Code should include specific guidance that independent advocacy services should be available in Welsh, as per the commitment made.</p> <p>The Welsh Government should clarify whether this is covered by the Welsh Language Standards and include any appropriate references to these in the Code.</p>				

	<p>The Committee also believes that the use of interpreters when providing advocacy services should be explored. Please refer to the full recommendation on this issue in discussion point 11A.</p>
<p>11D) Language medium of assessment for ALN</p> <p>(not directly related to a WG undertaking but included here as relevant to this discussion area)</p>	<p>The WLCO raised this issue in its written comments, although it was not the subject of a Welsh Government undertaking given during the passage of the Bill. Paragraph 7.37 of the draft Code lists examples of sources of evidence that could be used to measure a learner’s progress and to inform a decision whether they have ALN. ‘Standardised screening or assessment tools and frameworks’ is one of the examples given.</p> <p>Summary of stakeholders’ evidence</p> <p>The WLCO report that its internal research and complaints it has received suggests that many of the standardised assessments used to ascertain whether a learner has ALN are not always available in Welsh:</p> <p><i>“Whilst some local authorities have translated the assessments themselves, they were not necessarily validated, which raises significant questions regarding the reliability and validity of those assessments. Many assessments were not available through the medium of Welsh at all, which means some local authorities relied solely on observational assessments. There are also problems in terms of ensuring enough staff have the ability to conduct assessments through the medium of Welsh. It therefore seems that there exists a limited capacity in terms of assessing ALN through the medium of Welsh across Wales. This means that some young Welsh speakers must be assessed in English, which poses a significant risk to the validity and result of those assessments.”</i></p> <p>The WLCO believe that the Code should provide further instruction and share examples of good practice.</p>
	<p>Committee Response (Language medium of assessment for ALN)</p> <p>Although this was not the subject of a Welsh Government undertaking given during the passage of the Bill, concerns were raised as part of the working group’s consideration of the Code relating to Welsh medium assessment of ALN, including the suggestion from research conducted by the Welsh Language Commissioner’s office that many of the standardised assessments used to ascertain whether a learner has ALN are not always available in Welsh.</p> <p>The Committee is concerned by this and calls for the Code to address this issue by ensuring that assessments are conducted in Welsh where this is the learner’s first language and that any standardised materials used are in Welsh. At a minimum, the Code should qualify that the ‘all reasonable steps’ test applies to assessment as well as to provision.</p> <p>The Committee also believes that the use of interpreters when conducting assessments for ALN should be explored. Please refer to the full recommendation on this issue in discussion point 11A.</p>

Discussion 12: Additional Learning Provision (ALP) in other languages

<p>12A) ALP in other languages</p>	<p>Code to consider what guidance can be provided on ALP in other languages, for example BSL.</p>	<p>When rejecting Rec. 35, CYPE Stage 1 report, Minister, Alun Davies, said that, rather than an amendment to the Bill, this might be more appropriately dealt with in the Code and he would consider what guidance could be given on this.</p>	<p>Code says that an IDP should state the language of communication with the learner, that this could include British Sign Language (BSL) and that consideration should be given to the need for an interpreter.</p> <p>Appears to relate to language of communication rather than language of provision itself.</p> <p>No further references identified.</p>	<p>Para 13.15</p>
	<p>Summary of stakeholders' views</p> <p>NDCS do not believe that the draft Code does what the Welsh Government undertook to do:</p> <p><i>"I'm not sure that that paragraph actually addresses the point that was raised, which is for the code to consider what guidance can be provided on ALP in other languages. So, that section relates purely to just recording what the communication need of the child is. It doesn't relate to providing ALP in other languages."</i></p> <p>NDCS would like this section of the Code to also address the communication needs of families as well as the learner themselves in the way that providers and relevant bodies communicate about ALN matters. As NDCS highlighted, it is important that parents and other relevant family members are involved in the process and that their communication needs are met. The Children's Commissioner's Office added that there was a gap throughout the draft Code in support for families to develop their BSL skills in conjunction with their children.</p>			

	Committee Response (Additional Learning Provision (ALP) in other languages) <p>During scrutiny of the Bill, the Minister stated that it would be appropriate for the Code to consider what guidance could be provided on ALP in other languages, for example BSL. Paragraph 13.15 of the Code says that an IDP should state the language of communication with the learner, that this could include British Sign Language (BSL) and that consideration should be given to the need for an interpreter. But this appears to relate to language of communication rather than language of provision itself.</p> <p>The Committee is disappointed that the Code does not go far enough on this issue, and believes the Code should address the point discussed during the Bill’s passage, which related to ALP itself being made in other languages, specifically BSL, in addition to the language of communication with the learner.</p> <p>The Committee also believes the relevant section of the draft Code should include families/parents, as well as the child themselves, in considering whether an interpreter or other forms of communication is needed to support their participation in the ALN process.</p>			
Discussion 13: Looked After Children aged over 16				
13A) LAC aged over 16	Cabinet Secretary, Kirsty Williams, said “the Code will be able to contain clear guidance to aid practitioners around the duties and provisions in the Bill for looked after children and young persons to deal with transition from being a looked after child to a young person”.	In resisting amendment 10 at Stage 3, which sought to redefine LAC as under age of 18 for the purposes of the Act, rather than under compulsory school age. (Children’s Commissioner had concerns on this.)	Code confirms the Act’s definition of a ‘child’ as anyone not over compulsory school age and a ‘young person’ as someone over compulsory school age but under the age of 25. The Code explains that the definition of a looked after child under the ALN Act is narrower than under the Social Services and Well-being (Wales) Act 2014. Where a looked after child with an IDP becomes a young person, i.e. they exceed compulsory school age, the local authority must continue to maintain the IDP – not because they are looked after (section 19) but because they are a young person with ALN (section 14).	Para 1.17 Para 1.21 to 1.24. Para 21.6

	<p>Summary of stakeholders' views</p> <p>The Children's Commissioner's Office said:</p> <p><i>"Well, we were disappointed that that didn't come through in the Act, and we're aware that we can't change what's in the Act now. So, we're still really considering how we might be able to strengthen the whole provision for looked-after children aged 16 to 18, and it'll form quite a big part of our response. But we're still really considering that issue at the moment."</i></p> <p>The Children's Commissioner's Office later provided further detail outlining the potential areas their response to Welsh Government would contain, and that this was likely to refer to all looked after children rather than specifically to those aged over 16. No comments were made by other stakeholders.</p>			
	<p>Committee Response (Looked after Children aged over 16)</p> <p>The definition of Looked After Children was an issue that was considered during the scrutiny of the Bill. While the Committee notes the concerns raised by the Children's Commissioner for Wales, we acknowledge also that the definition is contained within the Act and the Code reflects this definition. The Committee notes that the Children's Commissioner is considering this matter further and that it will be included, alongside any other points regarding looked after children more generally, in her formal response to the Welsh Government consultation. The Committee simply wishes to bring this to the Welsh Government's attention at this stage.</p>			
Discussion 14: Advice to young people withholding consent				
14A) Advice to young people withholding consent	Cabinet Secretary, Kirsty Williams, said the Code would ensure that, where a young person did not consent to receiving ALP, that the young person receives all appropriate advice.	When resisting amendments 6, 7 and 8 at Stage 3 that the words 'having been informed of the significance and implications of their decision' be added to the	The Code states that the duty in section 6 of the Act to offer information and advice applies to enable young people to make informed decisions about consent.	Para 3.18
			"The young person should be provided with appropriate support, including information that enables them to make informed decisions. This includes information which explains their rights, the consequences of having an IDP or not having one and that they can change their minds at any time."	

		relevant sections of the Act.	Code also states: “Where the young person does not consent to the decision being taken, this must be recorded. Local authorities should have appropriate procedures in place to facilitate this, which might include the young person signing to confirm that they are withholding consent.”	Para 12.7
	<p>Summary of stakeholders’ views</p> <p>Stakeholders felt this aspect of the Code could be strengthened. The Children’s Commissioner’s Office said that providers and relevant bodies should have to be more proactive in advising young people, rather than just relying on them changing their mind about consent:</p> <p><i>“At the moment, it says that young people should be made aware that they can change their minds, but is there maybe a bit more of a duty to revisit this and have a mechanism to enable young people to change their minds?”</i></p> <p>SNAP said:</p> <p><i>“I know parents, Chair, are very, very worried about this element. These two paragraphs don’t discuss anything about working with a family here about this decision. And we do know that a lot of young people 16 plus don’t want to necessarily have the provision, have the support that they need, don’t make informed decisions, and I just don’t think that an FEI that is lacking in funds is going to necessarily go out of their way to ensure that there’s a proper understanding with a young person about this consent issue.”</i></p> <p>The discussion led to the issue of mental capacity with NDCS commenting:</p> <p><i>“More is needed around capacity to consent because that’s a huge area that hasn’t really been touched upon appropriately.”</i></p>			

	<p>The Association of Education Psychologists</p> <p><i>"It's a very difficult issue, the one of capacity, especially when the young person's got additional learning needs, and how it's going to be defined. I can see that as being a real, real problem."</i></p> <p>SNAP added:</p> <p><i>"I do think they're very vague. I thinks it's 10 where they say that they can withhold consent, and it's repeated several times. But it's very vague; it's completely unrelated to the Mental Capacity Act at all, and it's a very subjective decision based on the provider of the service supporting that child to come to that decision."</i></p>			
	<p>Committee Response (Advice to young people withholding consent)</p> <p>The Committee is pleased that the Code contains some information / guidance, seeking to ensure that where a young person does not consent to receiving ALP, that the young person receives all appropriate advice. However the Committee agrees with stakeholders that this aspect of the Code could be strengthened.</p> <p>In particular, the Committee believes the Code should require providers and relevant bodies to be more proactive in ensuring young people have all relevant information and advice to understand the implications of withholding consent. In addition, the Code should ensure that providers and relevant bodies establish clear processes for young people to access further information and advice if they are considering changing their mind after withholding consent.</p> <p>The Welsh Government must also consider how the Code can give sufficient consideration to issues surrounding capacity, taking adequate account of the Mental Capacity Act 2005. The Code should refer to the 2005 Act where appropriate.</p>			
Discussion 15: UNCRC: Governing bodies' compliance				
15A) UNCRC: Governing bodies' compliance	<p>Cabinet Secretary, Kirsty Williams, said the Code will explain how duties to comply with duty on LAs and health bodies to have due regard to the UNCRC will filter down to school and FEI governing bodies.</p>	<p>When resisting amendments at Stage 3 calling for the duty to have due regard to the UNCRC to be extended to governing bodies.</p>	<p>Chapter 4 deals with duties of due regard to UNCRC and UNCRDP.</p> <p>Paragraphs 4.16 and 4.17 give guidance on how LAs and health board should discharge these duties in practice. Includes:</p> <p>"actions to ensure that leaders and staff involved in the delivery of services relating to ALN are aware of relevant rights under the Conventions of children and young people,</p>	<p>Chapter 4</p> <p>Para 4.17</p>

			<p>including those with disabilities, for instance through staff training;”</p> <p>No further detail identified on how duties will filter down to governing bodies.</p>	
	<p>Summary of stakeholders’ views</p> <p>Children in Wales said they were very pleased that the duty on local authorities and health bodies to have due regard to the UNCRC made its way on to the face of the Act. However, they noted that the draft Code does not explain how these duties will filter down to school and FEI governing bodies, as the Welsh Government said it would. The Children’s Commissioner’s Office commented:</p> <p><i>“We would support that. And the chapter on the UNCRC duties relates to the strategic planning of additional learning of the ALP and then, it’s not referenced, actually, in other key points, for example, around the decision around ALN. It’s not referenced around that, it’s not referenced in the preparation of the IDPs and it’s not referenced in the duties to secure Welsh language and things. So, there are many more ways that it could inform the code as a whole.”</i></p> <p>The Children’s Commissioner’s Office later provided further detail outlining the potential areas their response to Welsh Government would contain, and that this was likely to refer to the Code generally missing opportunities to mainstream rights-based practice into the everyday experiences of children and young people in their education setting.</p>			
	<p>Committee Response (UNCRC: Governing bodies’ compliance)</p> <p>The Committee is pleased that paragraphs 4.16 and 4.17 of the Code give guidance on how LAs and health boards should discharge their duties to have due regard to the UNCRC. We would like to see greater detail on how these duties will filter down to school and FEI governing bodies (as per the commitment made by the Minister during scrutiny of the Bill). This is especially important due to concerns about the approach of placing duties at a high-level and expecting this to filter down to ground level.</p> <p>The Committee therefore believes that the Code should provide greater explanation of how the duties on local authorities and health bodies, to have due regard to the UN Conventions on the Rights of the Child and the Rights of Disabled Persons, will translate to the actions of schools and FEIs on the ground.</p>			

Discussion 16: Education Tribunal

16A) Tribunal remit over health boards

Bill amended at Stage 2 to give Tribunal power to require health bodies to provide evidence regarding a case before it, as well as make non-binding recommendations to the health body on whether/how it should provide services.

Compromise at Stage 2: WG amendments to the Bill in response to recommendation 38, CYPE report.

The Code reiterates the two powers available to the Tribunal in the Act.

An NHS body must report back to the Tribunal within 6 weeks of a recommendation being made, giving its response and its reasons.

Paras 26.20 to 26.21.

Summary of stakeholders' views

Several stakeholders, mainly those representing families such as SNAP and NDCS, remain **concerned about the two separate processes** for seeking redress against education providers (the Tribunal) and against health bodies (the NHS 'Putting Things Right' process). However, this is the position under the Act and there is some encouragement taken from the arrangement for the Tribunal to issue non-binding recommendations to health bodies As SNAP said:

"I think you have made the best of what we've got here, because I think that NHS boards having to report back is good. I think local authorities having to act on directions within certain times is good, because they don't always, and quite often, parents come to us because even though a tribunal has been upheld in their favour and a direction has been made, it's not necessarily acted on and then they have to go through a whole complaints process again. So, I think with what we've got here, there are some positives."

However, NDCS pointed to a lack of clarity over which route families should use and warned of **possible implications for the eight-week timescale** families have to appeal after receiving a decision on ALN (paragraph 26.14 of the draft Code):

"There's still not much clarity around when you would take one through 'putting things right' and when you would take one through education tribunal Wales, but potentially, families are going to be encouraged to go through the 'putting things right' approach, because it's softer. And my concern is that (1) there's confusion around it, but (2) that could potentially have ramifications and knock-on effects in terms of timescales and ability to lodge an appeal, which I don't feel are very clear."

Reinforcing this point, SNAP added:

*"It's that thing that if schools and local authorities are pushing parents into the health complaints process, **their two-month period will run out.** (...) if they do look for mitigation in one area, it shouldn't prevent them from having the two*

	<i>months at the end of that process, if necessary, but the two months start there ... not the decision.” [The draft Educational for Tribunal Wales Regulations 2019 specify an eight-week period.]</i>			
	<p>Committee Response (Tribunal remit over health boards)</p> <p>During scrutiny of the Bill, the Committee recommended that the Tribunal was given remit to direct health bodies. While this was resisted, we were pleased that the Bill was amended to give the Tribunal power to require health bodies to provide evidence regarding a case before it, as well as make non-binding recommendations to the health body on whether/how it should provide services. This does, however, mean that there remains two appeal processes – The Education Tribunal for Wales and Putting Things Rights – and concerns have been raised in his regard.</p> <p>While the Committee acknowledges the legal position, and does not wish to re-open the argument about the Tribunal having remit to direct health bodies, we believe the Code should give clearer guidance about the relationship between the two appeal processes to help ensure that families receive suitable information and advice so they can make an informed decision on which to use.</p> <p>The Committee is also concerned that it is not clear from the detail of the Code whether the eight-week period which families have to submit an appeal to the Tribunal, under the draft Education Tribunal for Wales Regulations 2019, runs concurrently or consecutively with any complaint a family has made through the NHS process. The Committee strongly believes this should be consecutive rather than concurrent, and that the Code should clarify this.</p>			
16B) Tribunal composition	WG said in response to Stage 1 report that it would consider how the clinical judgement and expertise could be incorporated into the Tribunal’s membership, in the event of giving the Tribunal powers to direct health bodies.	Response to Rec. 39, CYPE Stage 1 report.	<p>The Tribunal can only issue non-binding recommendations to health bodies and has no powers to compel them to provide services.</p> <p>The Draft Regulations provide for a Tribunal Panel to consist of a Chair (usually the President) and two lay members selected by the Chair from the lay panel.</p> <p>The Draft Regulations require that the Welsh Ministers must be satisfied that sufficient members of the lay panel have current knowledge and experience of children and young people, and ALN or disabilities, or both if required.</p>	<p>Regulation 11, draft Regs</p> <p>Regulation 9, draft Regs</p>

	<p>Summary of stakeholders' views</p> <p>The Royal College of Speech and Language Therapists believe this is still a relevant issue, even though the Tribunal cannot issue binding directions to health boards:</p> <p><i>"I think it's still relevant. I know that it's the non-binding recommendations to health bodies, but I think it's still appropriate to consider the composition of tribunal, looking at the evidence base, looking at linking it to intended outcomes. I think that's not a bad thing."</i></p> <p>Committee Response (Tribunal composition)</p> <p>During scrutiny of the Bill, the Committee raised the issue of including relevant clinical expertise on the Tribunal – but this was primarily linked to the recommendation calling for the Tribunal to have remit to direct health bodies. While the Committee acknowledges the position on the Tribunal's remit set out in the Act, we agree with the comments made during the working group's discussions.</p> <p>The Committee recognises that the Draft Education Tribunal for Wales Regulations require that the Welsh Ministers must be satisfied that sufficient members of the lay panel have current knowledge and experience of children and young people, and ALN or disabilities, or both if required. While not necessarily for inclusion in the Code, we believe the Welsh Ministers' consideration of whether the Tribunal panel has sufficient knowledge and experience should include clinical judgement and expertise on health matters where these are likely to be relevant, as this would give strength to any recommendations to health bodies made by the Tribunal.</p>			
<p>16C) Compliance with Tribunal orders</p>	<p>Code to include sufficient and robust guidance about LAs and health boards reporting back to the Tribunal on actions they have taken to comply with a Tribunal order.</p> <p>In addition to the amendment at Stage 2, the Bill was further amended at Stage 3 to enable the Tribunal to share information with the Welsh Government about whether Tribunal orders have</p>	<p>When resisting amendments at Stage 2, the Minister, Alun Davies, put forward his own amendment 146 requiring FEIs and LAs to report to the Tribunal within 14 days of the date the Order had to be</p>	<p>The Code reiterates the 14 day period governing bodies and LAs have to report to the Tribunal on their compliance with an order.</p> <p>The Code requires NHS bodies to report to the Tribunal on their response to a recommendation within 6 weeks of the date the Tribunal made the recommendation.</p>	<p>Para 26.18</p> <p>Para 26.21</p>

	been complied with, or recommendations followed.	complied with. He said the Code would provide further guidance on this.		
	<p>Summary of stakeholders' views</p> <p>Section 77 of the Act required providers and relevant bodies to report on their response to a Tribunal direction/recommendation. Section 78 enables the Tribunal to share information with the Welsh Government about whether local authorities have complied with orders and health bodies followed recommendations. Stakeholders believe both of these arrangements will be very important to evaluating the effectiveness of the Tribunal system.</p>			
	<p>Committee Response (Compliance with Tribunal orders)</p> <p>During scrutiny, the Bill was amended to enable the Tribunal to share information with the Welsh Government about whether Tribunal orders have been complied with. We are pleased that information is contained on the Code regarding the duties of relevant bodies to report to the Tribunal on compliance. While not necessarily for inclusion in the Code itself, the Committee believes that it is important that the Welsh Government closely monitors the level of compliance with Tribunal orders and recommendations in order to evaluate the effectiveness of the Tribunal system, and publishes regular reports on the outcome of such monitoring and evaluation.</p>			

References: [CYPE Committee Stage 1 report](#) (May 2017) and [Welsh Government response](#) (July 2017); [CLA Committee Stage 1 report](#) (May 2017) and [Welsh Government response](#) (May 2017); Stage 2 proceedings, CYPE [4 October 2017](#) & [12 October 2017](#); Stage 3 proceedings, [Plenary 21 November 2017](#); CYPE Draft ALN Code working group, 13 February 2019 (transcript not published).

Part 2: Other issues raised by the working group

Issue	What have stakeholders said?	What is the position in the Act/Code?
a) ALNCoS	<p>NDCS are disappointed that the Code does not go further in prescribing the required qualifications and experience of Additional Learning Needs Co-ordinators (ALNCoS).</p> <p>NDCS are also concerned about the demands on the ALNCo role and suggest whether some form of mechanism should be used to determine where a school requires more than one ALNCo. (The Act requires maintained schools and FEIs to designate <u>one or more</u> persons as an ALNCo.)</p> <p>The Association of Educational Psychologists said there would be “tremendous pressure” on ALNCoS and they did not how they would cope. They agreed with NDCS that qualification and training requirements for ALNCoS had been “watered down” which they said was “regrettable” and that there was a “missed opportunity” in how ALN is covered in initial teacher training.</p>	<p>The draft ALNCo regulations, which the Welsh Government is consulting on alongside the draft Code, require that ALNCoS must be either a school teacher or FE teacher registered with the Education Workforce Council (EWC) or a current SENCo.</p> <p>The Welsh Government is taking this approach as it ideally wants a ALNCo to be a qualified teacher and therefore have good access to the senior management team of the school. However, it does not want to preclude the small proportion of existing SENCoS who are not qualified teachers but are well established in their school and are delivering the role effectively.</p> <p>Upon introduction of the Bill in December 2017, the WG’s intention was to use these regulation making powers to require ALNCoS to have a Masters level qualification. During the Bill’s passage it adopted a more flexible approach (partly as a result of this Committee’s recommendations that it not unduly narrow who could fulfil the role).</p>
b) Deaf learners’ entitlement to an IDP	<p>NDCS believe strongly that deaf children and young people should always be deemed to have ALN and therefore entitled to an IDP. They therefore welcome the recognition in paragraph 7.23 of the draft Code that there are some forms of disability which mean it is more likely</p>	<p>The reference to the local authority register referred to in paragraph 7.23 of the draft Code does not replace or supersede the ALN definition in section 2 of the Act. Rather, it states that children or young people on this register are more likely to have ALN as they are more likely to have a disability which inhibits or</p>

	<p>that a learner has ALN (although they would prefer ‘likely’ to be replaced by ‘always’).</p> <p>However, they do not favour linking this with the register which each local authority has to maintain (under the Social Services and Wellbeing Act 2014) of those in their area who are sight or hearing impaired. NDCS say this register is voluntary and indicate that many people who are sight or hearing impaired do not self-identify as such and are therefore not on the register.</p> <p>NDCS would therefore prefer that the draft Code did not refer to the register and instead focused on the definition in the Act.</p>	<p>prevents them from accessing the education and training that is generally available (the second part of the ALN definition in section 2).</p> <p>Therefore, simply because a learner who genuinely has sight or hearing impairments but is not on the register does not mean they would not qualify for an IDP. If they meet the definition of ALN they would be eligible regardless.</p>
	<p>Committee Response (Deaf learners’ entitlement to an IDP)</p> <p>The reference in paragraph 7.23 of the Code to the local authority register is used as an example to highlight the forms of disability where it is likely that learners will have ALN, and the Committee can see the benefit of including such an example in the Code. However, we understand the concerns raised by NDCS that there will be learners with a sight or hearing impairment that are not on the register.</p> <p>We therefore believe that if reference to the register is included in the Code, to avoid any doubt, the Code should also make it clear that the definition in the Act has primacy and local authorities should not simply rely on the register as a means of identifying people with disabilities who have ALN. It is the nature of the disability itself, in line with the ALN definition in section 2 of the Act, that presents eligibility for an IDP.</p>	
<p>c) Referral to health services</p>	<p>RCSLT emphasise that Speech and Language Therapy services have an open referral system and question whether the table at paragraph 15.25 on page 181 of the draft Code means that only a local authority or FEI can refer a learner for NHS ALP. RCSLT would not support such a restriction.</p>	<p>Paragraph 15.25 of the Code states that: ‘A local authority or FEI may refer a matter to an NHS body, asking it to consider whether there is any relevant treatment or service that is likely to be of benefit in addressing the ALN of a child or young person. It would do this where it considers that an NHS body might be able to provide ALP to meet a child or young person’s needs. A relevant treatment or service is a treatment or service that an NHS body would normally provide as part of the comprehensive health service in Wales.’</p>

	<p>Committee Response (Referral to health services)</p> <p>The Committee believes that paragraph 15.25 of the Code could be strengthened to further clarify whether it is only a local authority or an FEI who can refer a matter to an NHS body. Although recognising that the Code is not aimed specifically at parents, the Committee believes that the Code should set out the other options a family may have (i.e. making their own request to the NHS). The Committee also believes it should be made clear whether a GP or health visitor can refer a learner to other NHS services for ALP.</p>	
<p>d) Definition of early years</p>	<p>RCSLT suggest it would be helpful if ‘early years’ could be defined for the purposes of the Code. They say it is defined inconsistently in the draft Code, for example as ‘under compulsory school age’, without qualifying that this is only where they are not the responsibility of a school governing body.</p>	<p>The Act does not define ‘early years’ specifically.</p> <p>Section 62 of the Act means that the scope of the responsibilities of the Early Years ALN Lead Officer is children under compulsory school age (school term after fifth birthday) who are not attending a maintained school. The relevant chapter of the Code (chapter 8) uses this definition.</p> <p>The Code does however refer to ‘early years’ in relation to a number of its provisions outside the role of the Early Years ALNLO.</p>
	<p>Committee Response (Definition of early years)</p> <p>The definition used in chapter 8 of the Code in relation to the role of the Early Years ALNLO is the same as in Section 62 of the Act. However, the Code also refers to ‘early years’ in relation to a number of its provisions – outside the role of the ALNLO. To avoid any confusion over what is meant by ‘early years’, the Committee believes the Code should explicitly state what is meant by ‘early years’ wherever it is referenced in the Code and use the full definition in each reference. Alternatively, the Code could include a clear statement in a prominent place of what is meant by early years throughout the document.</p>	
<p>e) Use of previously established guidance</p>	<p>Children in Wales said that the Welsh Government had spent ‘a lot of money’ bringing in programmes such as the early support programme and key workers in transition to</p>	<p>The Welsh Government has said that the document is a ‘Code’ rather than a ‘Code of Practice’ as the current SEN Code of Practice. As such, it does not include case studies of best practice (although these will be made available separately) on the basis</p>

<p>on good practice</p>	<p>adulthood but that these appear to have been abandoned. CIW said:</p> <p><i>“There’s no reference to all the good work that those programmes have actually completed, and how they could be put into practice, and the findings from those programmes are still relevant today. From my point of view, it was just a sheer waste of Welsh Government funding bringing in those programmes and then just completely forgetting about them.”</i></p> <p>Committee Response (Use of previously established guidance on good practice)</p> <p>Although, the Committee recognises that the draft ALN Code is meant to be a ‘Code’ rather than a ‘Code of Practice’ we are concerned that insufficient use appears to be being made of previous good work in programmes such as the ‘early support programme’ and ‘key workers in transition to adulthood’. We believe the Welsh Government should make efficient use of guidance and work that has already been established.</p>	<p>that practice evolves over time and the Code is intended to be a long-term, enduring document.</p> <p>This is an issue that Children in Wales have raised before, during pre-legislative scrutiny of the draft Bill in 2015 and in scrutiny of the Bill in 2017.</p>
<p>f) Funding</p>	<p>The WLGA highlighted the scale of the challenge in implementing the new system given the level of funding available:</p> <p><i>“And running underneath all of this is funding, because there is no additional money for any extra provision, extra anything. All of the money—the £20 million that the Ministers have promised—is all being spent on the transformation leads and training. If we’re to meet what is effectively a demand-led needs-based system then people have to wake up and realise that costs—if we are to do what the Act wants us to be able to do for all of those children with ALN.”</i></p> <p>The Royal College of Occupational Therapists also raised the issue of resources, including the provision of necessary equipment and how this would be funded.</p>	<p>This relates to the issue in discussion area 1 of whether funding pressures mean that the new ALN system of IDPs might not be deliverable across the full range of learners with ALN (approximately 100,000).</p> <p>The Committee receives quarterly updates from the Welsh Government on the progress of the ALN Transformation Programme (of which the Act is part), which has been given a £20 million budget.</p> <p>During scrutiny of the Bill, the Welsh Government maintained that the legislation would be cost-neutral, as savings from fewer disputes and less conflict would offset the costs of enhanced provision.</p> <p>This is also an emerging theme of the School Funding inquiry where schools and local authorities have highlighted the</p>

		potential difficulties they will have in funding the implementation of the ALN Act.
	<p>Committee Response (Funding)</p> <p>While the Committee recognises that this is not necessarily an issue relating to the ALN Code itself, we are extremely concerned that there is a risk that insufficient resources (whether that is funding of staff) threatens the successful implementation of the Act and delivery against the Code. The Children, Young People and Education Committee is currently undertaking an Inquiry on School Funding, and this has been raised as a concern by stakeholders during evidence sessions. The Committee will therefore be considering this further as that Inquiry progresses.</p> <p>Please also see the Committee’s specific comments on the effect that inadequate funding / resources could have on how the definition of ALN is applied, which are contained in its response to discussion area 1.</p>	
g) Usability of the Code	<p>Several stakeholders felt the draft Code would be difficult for practitioners to use due to its length and the way it is presented. RCSLT said it was “long and unwieldy”, the WLGA said it was “not very user-friendly”, whilst the Children’s Commissioner’s Office said that “if it does not change substantially”, it would “utterly disempower most teaching professionals from accessing it”.</p>	<p>The Welsh Government has acknowledged that the draft Code is long and detailed, whilst also stressing it is a document aimed at professional practitioners. Its purpose, therefore, is not to explain the ALN system in lay terms, which is the role of the impartial information and advice local authorities must secure.</p> <p>The Welsh Government has produced an ‘easy read’ version of its consultation document as well as a version aimed at children and young people.</p>
	<p>Committee Response (Usability of the Code)</p> <p>In order for the Code to be used effectively, it must be clearly understood by those it is aimed at. We note that the draft Code is long and detailed, but accept that it is a document aimed at professional practitioners. As such, its purpose is not to explain the ALN system in lay terms, which is the role of the impartial information and advice local authorities must secure. However, the Committee believes the Welsh Government should ensure the Code is accessible and fit for purpose for the practitioners it is aimed at, whilst remaining sufficiently detailed and comprehensive.</p> <p>The Committee notes the overview in paragraphs 1.73–1.100 of the way the Code is structured but suggests the Welsh Government should consider whether the use of an index would help readability and use of the document.</p>	

Respondent Details

Information

Name Debbie Harteveld**Organisation (if applicable)** Education Achievement Service (EAS)**Part 1 of the consultation: The draft ALN Code****Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsTimescales**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, but clarification on whether the time scales are week/working days only or full weeks.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clarity around time scales is required otherwise there will be an opportunity for variances to evolve.

Structure of the draft ALN Code**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

An overload of information beyond detail will cause confusion and allow for inconsistencies.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This will allow a consistent approach in line with main stream schools.

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Should learner voice be given recognition as a principle?

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

3.8 ‘should’ to be ‘must’ use the information to ensure appropriate arrangements are put in place to support children and young people to fully participate in decisions which relate to them and to express their views, wishes and feelings
3.18 Young people have the right not to consent to a decision being made about whether they have ALN or to an IDP being prepared or maintained or, in respect of a detained young person, kept.⁹ The duty¹⁰ set out above about involving and supporting young people applies when a school, FEI or local authority is exercising a function under the Act in relation to a young person, including seeking their consent to decisions or in respect of IDPs. The young person should be provided with appropriate support, including information that

enables them to make informed decisions. This includes information which explains their rights, the consequences of having an IDP or not having one and that they can change their minds at any time. **Clarity around the implications of a young person having the right not to consent is required.**

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There will be a requirement to provide professional learning to staff on UNCRC and UNCRPD

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

5.6 Local authorities **should** record the findings of their reviews - **must**

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Add examples of how a young learner will become known to having ALN needs to the Local Authority.

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

9.32 – to read as must rather than should. This information should be contained in a PCP.

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Consideration that there is only one form of IDP whether the child is looked after or not. Different forms will create confusion and repetition of form filling of when a child becomes or ceases becoming LAC.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

13.5 – children who have English as an additional language or those who are new to English to Language ‘must’ be given support with their home language.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

A generic job description should be attached as an annex.

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

IDP's to be reviewed annually but twice a year in transition periods (especially the move from year 6 to year 7).

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

17.6 Once made, the local authority's decision replaces the school's decision and is appealable to the Education Tribunal⁸ – **schools will require training on this procedure.**
17.16 If the local authority decides not to revise the IDP, it must²² notify the pupil, and if the pupil is a child, their parent, of the decision and the reasons for it and give a copy of that notification²³ to the school. **-this must be within a time limit.**

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

17.20 The local authority must³³ conduct the reconsideration and complete the actions in either paragraph 17.16 (if it decides not to revise the IDP) or paragraph 17.17 (if it decides to revise the IDP), promptly and in any event within the period of 7 weeks from receiving the request for reconsideration – **7 week window is too wide.**

17.24 This request cannot be made in respect of a child or young person in the area of a local authority in England – **should this be reconsidered under equity.**

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Totally support and agree a person-centred approach should be used in all meetings.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

19.7 Early and co-ordinated transition planning is required to support children and young people with ALN make positive transitions. Transition planning should be an ongoing process rather than a single event, and tailored to suit the child or young person's needs- **transitional planning MUST be on going and not a single event – these are our most vulnerable learners, they require transition programme not a transition event.**

19.14 Transition planning should be undertaken at least once a year. It is expected transition planning will coincide with the IDP review and, as such, consideration should be given to the arrangements for when the IDP will be reviewed.- **reviews at transition should be twice a year.**

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clear time scales to be added to the code if a young person moves between settings within an LA and between LA's in Wales.
Do LA's have the capacity to maintain IDP's when a LAC/ALN child is being educated in England – is this building in a time delay for a vulnerable group of learners?

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

See response to Q 31

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clarity around 'successfully challenged' to be defined.

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Clarity around term ‘promptly’ required.
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Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Very clear, detailed section.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

24.5 It is vital that the ALNCo has sufficient time and resource to undertake their responsibilities effectively, including dedicated time away from teaching. The head of the education setting should ensure that the ALNCo is supported in this way. Clear and sufficient time allocation will ensure that the ALNCo is able to undertake their duties effectively – **expectation of percentage of time to be considered and suggested.**

Suggestion of a job description to be included in annex.

ALNCo's right to professional learning offers including leadership training.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Schools will require professional learning in this area.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Schools and settings will require professional learning around tribunals.

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

27.9 guidance if professionals do not agree on whether children lack capacity.

27.28 A case friend will usually be a relative or a close family friend of the child. However, a case friend could be anyone that fulfils the eligibility criterion and is not on the children's barred list. An enhanced DBS check with barred list information must also accompany the declaration of suitability form, unless the person wishing to be a case friend is a close family member (parent, stepparent, brother, step-brother, sister, step-sister, half brother, half sister, grandparent, uncle, aunt, nephew or niece). **Clarity required**

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

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Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

26.13 There are no exceptions to the timescales set out in the regulations. However a local authority or FEI concerned may²⁷ apply to the Tribunal for an extension to a timescale- **may be helpful to give some suggestions when this may occur.**

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Should references to third party organisations be added who may represent a child eg SNAP Cymru, Children's Commissioner

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Original DBS documents to be seen by the Secretary of the Tribunal
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Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

24.7 The role is a strategic one within the education setting and should therefore, either form part of the senior leadership team or have a clear line of communication to the senior leadership team2 – **consideration that this reads ‘must’.**

Exemplar job descriptions including roles and responsibilities for both schools and FEI would be helpful and ensure consistency across Wales.

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

h) supervising and training further education learning support workers who work with students with ALN; - **or broker the training – this a big demand on ALNCo’s time.**

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes especially with increasing numbers of LAC pupils.

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

To ensure a consistent approach across Wales and to avoid confusion there should be one plan. Settings will be duplicating forms when a pupil becomes an or ceases to become an LA funded IDP.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

But this could be simplified in a diagram, including LAC being educated in England.

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Would become even less complex if there was one plan. An IDP should contain all a PEP's information. This would allow for the one plan to be reviewed with all professional partners rather than calling separate meetings.
PCP should be aligned to the one plan.

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

An individual section outlining roles and responsibilities of the LACE would ensure a consistent approach across Wales.

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

- **Consideration given to professional learning for all professionals in education, health and social care – joint learning so clear messages are shared.**
- **Job descriptions for all post holders mentioned in code including the role of the LACE**
- **Easy to follow flow diagrams for family members and young learners.**
- **Professional learning for all settings on Right to Education and Participation Standards.**
- **Inclusion in Teacher Training Programmes and future Leadership training programmes.**

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Documents and relevant forms will need to be completed in line with home language – English/Welsh.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – 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.

None

Respondent Details

Information

Name

Respondent requested anonymity

Organisation (if applicable)**Part 1 of the consultation: The draft ALN Code****Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1**– Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clearly laid out what each of these terms means

Timescales**Question 2**– Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes I agree with the general approach of acting promptly and the idea of a fixed time frame. Some IDPs would be able to be prepared very quickly where the involvement is from the school, the parents and the child.

I think that the time frame set for a school to prepare an IDP is too short having read the chapters in the Code relating to IDPs. In the 35 days a school will potentially need to

- agree a date with parents
- invite professionals in writing to attend the IDP Meeting - it can often take some time for all parties to respond - two weeks or more with multiple contacts from school is very usual
- write to professionals to request information / views
- wait for professionals to respond - there does not seem to be a time frame for responding to schools (only to Local Authorities within 6 weeks)
- when information is returned to school, send information to the child and child's parents to allow them to fully engage in the discussion
- allow time for the child, child's parent to discuss matters of concern in the professionals reports with the school and invite feedback and in writing before the meeting
- hold the IDP meeting
- write the record of the IDP meeting (which in more complex cases it would be impossible to operate a person centred planning approach and record the IDP content during the meeting)
- send the IDP to professionals involved in ALP for their agreement
- wait for approval regarding ALP e.g. from Speech Therapy, Occupational Therapy etc
- give the IDP to the child and parents for them to comment on the draft

Can time frames be included for returning information to schools where the school is maintaining the IDP rather than the LA - from other professionals

The time a scale is simply not deliverable.

Question 3– Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

I think the notion of acting promptly is completely appropriate

BUT

1.34 The idea of there being 'outstanding evidence' and yet the IDP needing to be prepared will create a lot of additional work. It may well lead to an IDP Review with the whole process needing to be repeated in the light of the evidence. Surely it would be better to increase the time scale and make the time scale for returning information from professionals outside the school a **must**. This would allow for the original IDP to be written in a way that considers all the evidence. (With the understanding that with less complex IDPs actions will be taken and the process completed more promptly)

Structure of the draft ALN Code

Question 4– Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is so incredibly long (which is useful because it goes into detail) - it would be useful to have a summary e.g. timescales

Question 5– Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Except that it is very long and impossible to remember all the processes and so a summary would be helpful - alongside the easy read versions which are great for their purpose but too general for a school to use

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6– Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 2 - Principles of the Code

Question 7– Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes - although I am not sure whether parental expectations about ALP will exceed what schools and Local Authorities will be able to provide

Chapter 3 - Involving and supporting children, their parents and young people

Question 8– Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes - although I am not sure whether parental expectations about ALP will exceed what schools and Local Authorities will be able to provide

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9– Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities(UNCRPD)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10– Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Chapter 6 - Advice and information

Question 11– Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12– Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No - what does 'a significantly greater difficulty' mean? It would be useful for Local Authorities or Welsh Government to give some guidance about what levels these might be in relation to standardised scores.

Does a child diagnosed with dyslexia by a psychologist privately engaged have a disability? Or a diagnosis of dyspraxia or any other condition.

What if a child has an additional learning difficulty which calls for additional learning provision but the school is unable to fund the additional learning difficulty because there are too many children in the same position (not because of the complex nature of their needs needing a referral to the LA but because there are too many children in one school with high levels of need)

Question 13– Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It would be helpful to have more detail about what ALP could be

7.69 is unclear and difficult to understand

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14– Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

What consideration has been given to the size of the local authority and the role of the Early Years ALNCO? It would be a very big role for one person in large local authorities

Duties on schools, FEIs and local authorities

Question 15– Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

8.33 - what does 'secure' the ALP mean? Does it mean pay for it?

9.36 where a school maintains a plan, it MUST secure the ALP described in it - does this mean fund the ALP?

Question 16– Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Timescales are too short for schools

I think that the time frame set for a school to prepare an IDP and / or review an IDP is too short having read the chapters in the Code relating to IDPs. In the 35 days a school will potentially need to

- agree a date with parents
- invite professionals in writing to attend the IDP Meeting - it can often take some time for all parties to respond - two weeks or more with multiple contacts from school is very usual
- write to professionals to request information / views
- wait for professionals to respond - there does not seem to be a time frame for responding to schools (only to Local Authorities within 6 weeks)

- when information is returned to school, send information to the child and child's parents to allow them to fully engage in the discussion
- allow time for the child, child's parent to discuss matters of concern in the professionals reports with the school and invite feedback and in writing before the meeting
- hold the IDP meeting
- write the record of the IDP meeting (which in more complex cases it would be impossible to operate a person centred planning approach and record the IDP content during the meeting)
- send the IDP to professionals involved in ALP for their agreement
- wait for approval regarding ALP e.g. from Speech Therapy, Occupational Therapy etc
- give the IDP to the child and parents for them to comment on the draft

Can time frames be included for returning information to schools where the school is maintaining the IDP rather than the LA - from other professionals

The time a scale is simply not deliverable.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17– Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18– Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

See comments below

Question 19– Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

13.21 refers to the IDP but is in the section for a One Page Profile.
Attributing who said what from what is said and / or written would be very difficult to include in a One page profile as it would make it too 'wordy' and therefore loss its impact (as well as not fitting onto a page)

If this should be part of the IDP then it should be part of the IDP section of the Code

Question 20– Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

13.44 - there needs to be a time scale for the health body to respond to school requests and then to respond to the proposed ALP in the IDP

Transport

Question 21– Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

If travel arrangements are included, should there be a time scale set for responses?

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22– Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23– Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

As only local authorities, not maintained schools can make referrals to NHS bodies, should there be a system by which the school can refer to the local authority

The Designated Education Clinical Lead Officer ("DECLO")

Question 24– Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

What consideration has been given to the size of the local authority and the role of the DECLO? It would be a very big role for one person in large local authorities and may require more than one person in order to be able respond within the given time frames / promptly

Chapter 16 - Review and revision of IDPs

Question 25– Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

16.12 is not clear - this section is very difficult to follow

Question 26– Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

16.29 The review period needs to be longer for information to be gathered

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27– Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28– Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Will there be sufficient funding for the IDPs that the local authority directs a school to maintain?

Chapter 18 - Meetings about ALN and IDPs

Question 29– Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Timescales are too short (as with setting up the IDP)

Chapter 19 – Planning for and supporting transition

Question 30– Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

19.16 Year 6 to Year 7 is not mentioned

Chapter 20 - Transferring an IDP

Question 31– Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs- Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32– Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33– Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34– Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 35– Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37—Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38—Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is a significant role and will need the support of the headteacher and whole staff. Could something be written about the headteacher and governing body supporting the ALNCO

There are significant training implications for ALNCOs and local authorities will need to provide training re budgets etc in order to fulfil the role as it is described

Where the Code says e.g. 24.15 'the ALNCO **must** secure relevant services that will support the learners ALP as required' - how will the ALNCO compel this to happen? Surely they can only request not guarantee that relevant services will support ALP

24.18 - it would be useful for this to be expanded

It will be helpful for the LA to provide ongoing training best practice in ALN

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

These requirements seem appropriate

Question 43– Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Same question

Chapter 26 - Appeals and applications to the Tribunal

Question 44– Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45– Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

I think so but have limited experience in this area

Any other comments

Question 46–Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Overall I agree with the principles of a more child centred, inclusive and collaborative approach

I am concerned that there is a lot of responsibility put at school level and I hope that there will be sufficient local authority support (and funding) to deliver the new Code.

I do not think that the time scales for schools to develop and check and IDP / IDP review is long enough where the school is working with (and it often will be), external partners

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Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47– Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 49–Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 50– Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 51– Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 52– Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53– Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 54– Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 3 of the consultation: Draft ALNCo regulations

Question 55– Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

I think the ALNCO in a school should be a teacher with experience - it is not a suitable role for an NQT (to advise about differentiation, be knowledgeable about how best to support children in a class setting etc)

Question 56– Do you agree with the tasks that ALNCOs must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

In order for an ALNCO to carry out these tasks they will need the support of the Headteacher and Governing Body who would need to be responsible in allowing the ALNCO time to carry out the things that they **must** do

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57– Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58– Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59– Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60– Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 61– Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Parents, schools, governors, health working more closely together

Greater involvement of the learner

A more person centred approach

Higher expectations of schools from parents and expectations about ALP which there may not be funding to fulfil

Question 63– What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Greater opportunities to use Welsh language

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65– 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.

Responsibility for ALN in the school must lie with the headteacher and the governing body. The ALNCO cannot ultimately be responsible for overall ALN as they cannot act without the permission and approval of the headteacher, who is answerable only the Governing Body and not to the ALNCO.

Respondent Details

Information

Name Humie Webbe**Organisation (if applicable)** National Training Federation for Wales (NTfW)**Part 1 of the consultation: The draft ALN Code****Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsTimescales**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Timescales very much depend on those with responsibilities for gathering information to inform the plan are able to effectively co-ordinate input from the professionals and support networks involved in the learners IDP

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting commentsStructure of the draft ALN Code**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

1. Introduction

I. NTfW is a membership organisation of over 100 organisations involved in the delivery of learning in the workplace. It is a Wales wide representative body for all those organisations or individuals involved in the training industry.

II. Members range from small specialist training providers to national and international organisations, as well as Local Authorities, Further Education Institutions and Charities.

III. NTfW welcomes the opportunity to comment on the proposed subordinate legislation under the Additional Learning Needs and Educational Tribunal (Wales) Act 2018 and considers that further clarification is needed within the Code to ensure children, young people and those involved in preparing pupils/student Individual Development Plans understand how transitional support is accessed and maintained in non-statutory educational settings.

IV. We also recognise the importance of Welsh Language provision and consider the Code should clearly demonstrate how those involved in the Welsh Language provision in the wider learning community can participate in discussions to meet the potential demand from individuals for whom the

ability to use Welsh is part of their culture and an essential part of their learning development.

We feel the transitional process may have a negative impact for individuals who choose a vocational route if the transitional arrangements are not clearly defined. NTfW recognise that the ALN Code does not apply to work based learning and accept this premise. Given however the queries raised at consultation events by some parents and support agencies on the transitional support arrangements for learners who move from statutory to non-statutory education settings suggests that more guidance is needed within the proposed ALN Code to ensure individuals and key stakeholders involved in producing IDPs are clear on how to access the relevant information to apply appropriate support at the earliest point of need.

NTfW suggest that where a firm decision has been made/or agreed that an individual is able to pursue a vocational or work based learning route, and it is clearly demonstrated that additional learning support is needed, the ALN Code should include a specific Work Based Learning (WBL) guidance note that clarifies

- how a WBL specialist can contribute to a learners' IDP to advise on the support needed to meet possible programme challenges
- how protocols can be established between local authority, learner and work based learning provider to share relevant information on any identified additional learning support that may assist an individual throughout their learning journey
- how professional opinion such as a psychologist report or an educational assessment may be accessed in a timely fashion to back up opinion detailing - where appropriate, the financial support available to implement/trigger support for the learner
- how the process works for displaced learners from 6th form at school/college setting where the IDP remains with the last educational establishment and falls outside anyone's remit for updating or access.
The WBL sector have examples of traineeship learners whose transitions were planned to FE and for whatever reason did not work out and then transferred to work based learning. WBL practitioners invariably struggle to gain access to their plans to put in the most effective support from the outset.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

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Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

We would hope that the proposed regulations would have a positive impact on the Welsh Language. Our sector works with Welsh language employers who support their learners to develop their Welsh language skills and the Code should consider how information is communicated across statutory and non-statutory education setting in particular those sectors actively involved in Welsh Language delivery to ensure learners with additional needs are presented with information to enable choices on the most appropriate learning settings to continue the individual's Welsh Language skills and learning potential if desired.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

The use of written and spoken Welsh is actively encouraged and supported in our sector and we have targets to increase the use of Welsh language within work based learning settings which have served to drive performance and outcomes across the sector.

NTFW recognise the importance of identifying and supporting practitioners who are able to deliver in the medium of Welsh and we feel it is important to prepare the future learning workforce to meet potential increased demand from individuals who want to learn in the medium of Welsh. NTFW work with learning providers and employers to share good practice; develop staff capacity; and increase the awareness of the positive benefit of developing bilingual skills.

It is hoped that learners will be presented with practical examples on how to use the Welsh language in a variety of education settings and NTFW welcome the opportunity to be part of any discussions that identify practical solutions to meet the potential deficit of Welsh Language delivery provision.

Question 65 – 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.

Respondent Details

Information

Name

Respondent requested anonymity

Organisation (if applicable)

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The terminology will ensure consistent application across all sectors. This will be of benefit to all ALN learners studying at [xxxxxxxxxxxxxxxxxxxxxxxxxxxx] and their parents or carers

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Given the need for prompt identification and appropriate support being put in place for learners of [xxxxxxxxxxxxxxxxxxxxxxxxxxxx] , these timescales will ensure that all parties are clear on the parameters of the entitlements under the Act and Code.

Consideration should be given to the fact that an FEI has a shorter period of time to get to know the learner and identify the learner's ALN and devise the best ALP.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As long as the FEI's have the information and documentation required in a timely manner from partner organisations, they will be able to confirm the ALP within the timescales. Consideration should be given to the fact that a FEI has a shorter period of time to get to know the learner and identify the learner's ALN.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The draft Code is clear and easy to follow.

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, it is.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The principles in the draft Code are person centred and will ensure that all sectors fully consider the needs of individual ALN needs of learners. This will provide consistency for learners and the parents/carers throughout their transition process. It will also provide consistency between transitioning institutions and multi-agency working.

The chapter is clear that the aim of the ALN system is based on a learner's needs and that it is based on education provision which is appropriate, suitable and available for those needs. Multi Agency Partners, Schools, Local Authorities, learners, carers or parents need to fully understand what a FE College is able to provide in terms of curriculum provision, qualifications and the learner support services. If there was a need to change any aspect of a College's provision or support or Key Performance Indicators, this would need further discussion as there would be resultant resource impact.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, this is clear – it will provide consistency across all organisations and agencies in terms of ensuring a person centred approach.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, this reinforces the principle of person centred planning and keeps the needs of the individual learner at the heart of the process.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

A consistent approach is needed for all institutions and agencies giving advice and guidance. This may involve developing a training or resource guide for those giving advice. Updating forums/ information sharing across all agencies will be needed as the Act and Code are embedded to ensure consistency of approach.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Generally, this is clear, however, further clarification would be useful when considering learners at FE colleges who are on discrete ALN provision, where they would all have a range of needs, some more significant than others, although still significant.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, this is clear.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Generally, very clear, however, the changing needs of learners as they embark on post 16 learning needs to be considered as they develop into young adults and are encouraged towards independence and progression to work or further training.

[xxxxxxxxxxxxxxxxxxxxxxxxxxxx] has not, historically, used the services of external Educational Psychologist, Speech and Language Therapies, Physiotherapists etc for their learners. This would be possible as long as there was sufficient resources provided to the FEI to put these additional support services in place.

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Consideration needs to be given to the fact that all FEIs generally have a short timescale to get to know the learner and their individual needs and put the ALP in place. FEIs are reliant of being provided timely, up to date and accurate information.

It may be the case that [xxxxxxxxxxxxxxxxxxxxxxxxxxxx] will have to source external agencies to provide this information. This is possible, but there would be significant resource implications.
In practice, [xxxxxxxxxxxxxxxxxxxxxxxxxxxx] will put as much of the ALP in place as quickly as it can, based on the information it has at the time and the declared support needs (as opposed to the evidenced support needs).

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, this will ensure consistency across all agencies working with the learner and save staff time and resources when the document can be shared at the key transition points.

The flexibility of style etc. offered in the Code will benefit [xxxxxxxxxxxxxxxxxxxxxxxx] in that it covers the wide range of enrolled learners.

A review after a period of time of implementation would be very useful involving key agencies to ensure that it does meet the learner's needs and is being consistently completed.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, it will benefit learners to have a consistent approach from all the agencies they work with and there will be one document which a learner and their parents/carers will have.

[xxxxxxxxxxxxxxxxxxxxxxxx] has purchased access to a provision mapping tool which the local secondary schools are using so that there will be (from Sept 19) immediate access to information on individual learners. This will save considerable time and resources as long as the correct information is recorded and stored on the platform.

It would be beneficial if there could be a shared electronic platform across Wales, so that where a learner who is from out of County enrolls at [xxxxxxxxxxxxxxxxxxxxxxxx], this information is more readily available.

The benefits that this system would bring to the learners would be invaluable and would save participating Agencies considerable time in getting the appropriate ALP in place.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, it will benefit all practitioners in terms of ensure consistency of completion of the IDP and associated processes.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Further consideration needs to be given for the ALN learners over the age of 19 who live a distance away from [xxxxxxxxxxxxxxxxxxxxxxxxxxxx] and how they are able to travel to and from College.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comment

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comment

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comment

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, however, more flexibility needs to be built into the process. 16.7 says that LA, Schools and College might want to plan review dates together, but in practice, this would be extremely challenging given the current staffing levels in the participating organisations (each Institution will have one ALENCo). [xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx] ALENCo cannot attend its own learners' reviews and those going on in Year 11 at one of the 6 feeder secondary schools in the county if they all fell within the same time period, although this may fall into the category outlined in 1.35 of the Code. This needs to be clarified.

In addition, consideration needs to be given to those learners who are new to College and that their needs may not have been fully ascertained by the autumn term, particularly if the information or documentation has not been made available to the FEI or if there is no information available as the needs have not been previously identified.

In practice, [xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx] will put as much of the ALP in place as quickly as it can, based on the information it has at the time and the declared support needs (as opposed to the evidenced support needs).

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

[xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx] would ensure compliance with the periods set out in the Draft Code, however, there needs to be some flexibility given that the LA, Schools and College may not be able to plan the reviews around one another (see question 25).

In practice, [xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx] will put as much of the ALP in place as quickly as it can, based on the information it has at the time and the declared support needs (as opposed to the evidenced support needs).

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As noted above, [xxxxxxxxxxxxxxxxxxxxxxxx] has not, historically, used the services of external Educational Psychologist, Speech and Language Therapies, Physiotherapists etc. There would be a significant resource implication on the College to put this additional provision in place (Question 15 above).

Local Authorities, Schools, pupils, parents and carers need to be clearer on what provision, support and services the FE Sector is able to provide prior to the reviews to make sure that meaningful discussion takes place at the reviews to ensure timely completion of the IDP.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Local Authorities, Schools, pupils, parents and carers need to be clearer on what provision, support and services the FE Sector provides and to ensure that all information is shared in a timely manner.

FEIs will facilitate the start of transition when they are aware that a learner is planning to come to College. Consideration needs to be given that learners and parents/carers do change their minds in terms of courses and even the Institution. Where this happens after GCSE results, or they make a late decision to apply to College, this can leave reduced time for appropriate transition arrangements to be put in place at the start of the term, which is a busy time for schools and colleges anyway.

Conversely, it can mean that time and effort taken to agree and implement the transition arrangements already agreed are wasted. This has a resource implication on Colleges, but this could be alleviated with better information sharing and understanding of FE provision, support and services beforehand.

The key is the sharing of this information at an early point in the academic year and for provisional transition plans to be made in the event of a learner coming to College; also to provide as much

information and documentation as possible prior to the reviews to make sure that meaningful discussion takes place at the reviews and to ensure timely completion of the IDP.

Pupils with ALN should be encouraged by their School and the LA to attend College open events, which will give them the opportunity to meet specialist ALN staff and discuss their needs even if they decide to remain in a post 16 school environment.

[xxxxxxxxxxxxxxxxxxxxxxxxxxxx] has purchased access to a provision mapping tool, which the local secondary schools are using so that there will be (from Sept 19) immediate access to information on individual learners. This will save time and resources as long as the correct information is recorded and stored on the platform.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is dependent on the early transfer of information relating to the individual learner's ALN, so that the College is fully advised on the needs of the learner in a timely manner and close working relationships with the College, relevant school and Local Authority. .

[xxxxxxxxxxxxxxxxxxxxxxxxxxxx] has purchased access to a provision mapping tool which the local secondary schools are using so that there will be (from Sept 19) immediate access to information on individual learners. This will save time and resources as long as the correct information is recorded and stored on the platform.

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is dependent on the early transfer of information relating to the individual learner's ALN, so that the College is fully advised on the needs of the learner in a timely manner and close working relationships with the College, relevant school and Local Authority.

The period of 20 days should run from the date of the learner's enrolment at the College to ensure that the College has an acceptable period of time to update and maintain the IDP.

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It would be beneficial if clear information is available at the start for parents, carers and learners in terms of when an IDP will cease to be maintained. This will alleviate any misunderstandings in terms of how long a learner will have an IDP. This responsibility needs to be shared with WG, Local Authorities, Schools and Colleges.

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This question is outside the remit of [xxxxxxxxxxxxxxxxxxxxxxxx], so we are unable to comment.

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Information and guidance about reciprocal arrangements between England and Wales relating to all documentation involved in the transition process would be welcomed.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALENCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

[xxxxxxxxxxxxxxxxxxxxxxxx] agrees that the position of ALENCo must be an individual who sits on the Senior Management Team with a clear line of communication to the senior leadership team. It is essential that they are able to influence College Policies and processes.

The Code allows for flexibility around qualifications for ALENCoS currently in post, which is positive; however, they will still need specific guidance and training on the requirements of the Act and Code to ensure standardisation of practice across institutions.

Newly appointed ALNCoS should also be required to attend any training within the first year of being in post. As the role requires that they provide ALN guidance and training to other staff, they should also receive annual update training on this area

Bilingual training for ALENCoS and other specialist support staff will need to take place

The Code needs to allow for flexibility within individual Colleges in terms of the management and staffing structure to ensure that it reflects the size and provision of individual colleges.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

[xxxxxxxxxxxxxxxxxxxxxxxxxxxx] welcomes the ALNET Act 2018 and the draft Code as it provides individuals with ALN continuity of support with their post 16 learning.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Code allows for flexibility around qualifications for ALNCos currently in post, which is positive, but they need to ensure that they have specific guidance and training to ensure standardisation across institutions and to be able to make consistent judgements on determination of ALP.

Newly appointed ALNCos should also be required to attend the training within the first year of being in post.

As the role requires that they provide ALN guidance and training to other staff, they should also receive regular update training on this area.

Bilingual training for ALNCos and other specialist support staff will need to take place.

There is a need to have more Welsh language exam access assessors and more Welsh language training in Wales including Welsh language awareness to ensure all parties know how to identify, implement and progress actions relating to the need to provide ALN support in Welsh.

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Code allows for flexibility around qualifications for ALNCos currently in post, which is positive, but they need to ensure that they have specific guidance and training to ensure standardisation across institutions and to be able to make consistent judgements on determination of ALP.

Newly appointed ALNCos should also be required to attend the training within the first year of being in post.

As the role requires that they provide ALN guidance and training to other staff, they should also receive regular update training on this area

Bilingual training for ALNCos and other specialist support staff will need to take place as well as more Welsh language training in Wales including Welsh language awareness to ensure all parties know how to identify, implement and progress actions relating to the need to provide ALN support in Welsh.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is important and will aid transition arrangements and ongoing pastoral care.

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is important given the enhanced duty of care to LAYP.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

That the enhanced duty of care to LAYP will be transparent.

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Improved collaboration and information sharing with parents/carers, the schools and Local Authorities.

There will be a raised awareness of ALN across all Sectors and learners' wishes and needs will be considered as central to the process.

The impact on the workload capacity of College staff needs to be considered as part of this process. It has been previously noted that the timescale for FEIs to get to know their learners, assess their needs and put an appropriate ALP in place is short. This will mean that this task, along with attending school reviews, creating or updating IDP's, agreeing transition plans etc. will impact considerably on workload.

In addition, the staff will need to attend training or updating to ensure that there is a consistent approach to assessing, reviewing and implementing ALP. Some staff will need to undertake the Level 7 specialist assessor qualification, which is not currently available in Wales.

Bilingual training for ALENCos and other specialist support staff will need to take place as well as more Welsh language training in Wales including Welsh language awareness to ensure all parties know how to identify, implement and progress actions relating to the need to provide ALN support in Welsh.

The current funding allocation for support does not cover these responsibilities.

The additional support services that learners with ALN access in the school setting, e.g. SALT, Educational Psychologists, Physiotherapies etc has not, historically, been available in FEIs - further consideration is needed on the budgetary implications if these services are to continue for a learner post 16.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Providers will have to recruit Welsh speaking specialist support staff in order to ensure that their needs are met. Bilingual training for ALENCos and other specialist support staff will need to take place as well as more Welsh language training in Wales including Welsh language awareness to ensure all parties know how to identify, implement and progress actions relating to the need to provide ALN support in Welsh.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Providers running the JCQ approved exam access arrangements qualification (Level 7 Certificate of Psychometric Testing, Assessment and Access Arrangements (CPT3A) are based in England and the training and assessment process is all undertaken through the medium of English and is very schools based.

There is a need to have more Welsh language exam access assessors and more training to take place in Wales.

Bilingual training for ALENCoS and other specialist support staff will need to take place as well as more Welsh language training in Wales including Welsh language awareness to ensure all parties know how to identify, implement and progress actions relating to the need to provide ALN support in Welsh.

Question 65 – 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.

Respondent Details

Information

Name

Joe Baldwin

Organisation (if applicable)

Bridgend College

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

These terms inadvertently create nuances and scope for challenge by and to the stakeholder to whom the relevant piece of legislation relates to. How do Welsh Government propose to monitor and ensure consistency of application and interpretation of these terms? The term 'should' and 'may' risk being viewed and interpreted in a similar vein, with stakeholders using these terms to justify a reason not to fulfill a requirement set out within the code.

'Should' and 'should not' do not set clear enough expectations or mandates and create scope for challenge.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Timescales are essential in ensuring that young people are able to access the support and provision they need to meet their outcomes. Delay and debate around provision or resource cannot be at the detriment of the access and learning of a young person.

Timescales are useful in managing expectations for all stakeholders, along with workflow, but guidance needs to be clear on how a young person, their parents/carer or another stakeholder would escalate concern or a complaint where these timescales were not being complied with.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is unclear whether the processes and timeline (the word 'promptly' is used) for an IDP being maintained by a LA being proposed to move to becoming FEI maintained, and indeed the process for an FEI to escalate an IDP to an LA, will be issued via supporting regulations or whether this will be down to each LA to decide and implement.

If the latter, there is grave concern that the inconsistencies in approach, thresholds and referral methodology would see inequity for young people depending on their postcode.

Similarly, where duties are placed upon a school or FEI to decide whether a young person has ALN and/or requires ALP, and a threshold in which the IDP would be required. Issuing an IDP would invoke the associated statutory requirements, particularly annual reviews. Within a graduated pathway of support and ALP, a threshold for an IDP is likely to be considerably different across FEIs. This could result in increased levels of applications to a particular FEI based on ALP, reputation and experiences of others. This will have an adverse impact on FEIs resourcing and capacity to meet demand and needs.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In many cases, young people within a PRU are some of the most vulnerable individuals within education. Monitoring and support for both individual young people and a PRU is essential in ensuring that those young people have the very best opportunities to progress and achieve. A partnership approach with sound monitoring is required to ensure that a young person with an ALN in a PRU is effectively supported with the correct ALP.

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, the principles are plausible but whether or not they can be realistically achieved will depend on many variables. These variables include the careful management of expectations and needs (versus desires), investment to ensure that ALP is fit for purpose and available locally and bilingually.

Welsh Government agendas around health and wellbeing, ALN and the Welsh language need to be cohesive and aligned - this would mean ensuring that joint commissioning of health and education services would realise greater long term efficiencies and targets around Welsh speakers and associated targeted funding would also support the upskilling and access to bilingual and/or Welsh medium ALP and ALN professionals.

We welcome the principle focused around early identification, intervention and transition and we recognise the vital importance of seamless and well-planned transition in ensuring that young people and their families are well-supported. It is, however, essential to mandate the expectation that all schools work in partnership with FEIs to ensure sharing of IDPs, ALP and invites to transition reviews. This will enable FEIs to plan provision, resource and training to ensure that the needs of learners transitioning from school to college can be appropriately met.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

True participation and co-production of ALP and IDPs is essential in ensuring that all partners are committed to delivering the very best outcomes for a young person.

3.3 states 'must have regard to views and wishes of...', whilst 3.4 states 'should' in relation to involvement of child, young person and their parents in decision making. 3.5 goes on to outline the importance of children and young people being at the centre of all decisions. For this to happen, both 3.3 and 3.4 should be 'must'.

In a similar vein, 3.8 should also be changed from 'should' to 'must', to ensure that information is used to ensure that a child or young person can fully participate in decisions (this will be based on their own needs and communication methods) and would naturally require the use and understanding of the communication needs and requirements of the child or young person.

3.12 - if views, wishes and feelings 'must' be taken into consideration, then they 'must' be ascertained (currently reads 'should' be ascertained) - they cannot be taken into consideration or

recorded (which is a 'must') if they have not been ascertained. This reverts back to 'must' when talking about having regard to views in 3.24 and 3.25.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Constant review and evolution of ALP aligned to the ever changing ALN of individuals is vital, however, what assurance and challenge will be in place to ensure that this happens in practice?

This chapter makes use of the term 'should', throughout, presumably due to the size and resource available to different LAs across Wales, however this sets no mandate of expectation or impetus to comply and neither does it indicate methods to monitor that this is happening or routes of escalation for other stakeholders where these duties are not being fulfilled. What role should / could Estyn, Challenge Advisors, Welsh Government and/or Consortias play in ensuring that the requirements outlined in chapter 5 are met?

5.4 cites 'capability of the workforce' but this cannot be used as rationale for not providing ALP or robustly reviewing and identifying gaps in provision or need. The 'should' used in relation to Welsh language provision undermines the Welsh Government strategy 'Cymraeg 2050: A Million Welsh Speakers' and 2.24 - 2.26 - 'A Bilingual System'. 5.18 references 'the range and level of Welsh language provision needed'. The Code seems to place more responsibility and expectation on schools and FEIs in relation to the Welsh language (e.g. 18.14), than on LAs to provide ALP and specialist workforce through the medium of Welsh. These become 'musts' in 10.20 when outlining FEI responsibilities in relation to Welsh language.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Whilst we agree in principle with the requirements outlined within this chapter, emphasis must be placed on the requirement for information and advice to be impartial, along with the role and availability of independent advocacy for children, young people and/or their parents.

Requirements relating to advice and information for Post-16 education and training options to young people and their families is weak. Post-16 education, by its nature, is not local and many FEIs and ISPIs have catchment areas that are wider than one LA area, with many drawing students from at least 4 or 5 different local authorities. Advice and guidance from LAs must therefore include all FEIs and ISPIs that would be appropriate for young people in their area to consider and explore. The accessibility, availability and promotion of this advice and information also requires clear expectations. It is anticipated that where a tertiary approach to education exists, information and options may be more readily available to all young people and their families.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

How would one quantify 'significantly greater difficulty'. The reason for this could be wider and varied e.g. a school refuser may not have an ALN but may have significantly greater difficulty than the majority of others of the same age, thus ALP might be required. This is picked up within 7.21 although this states 'which are more common for older children' - this does not support a person-centred approach - a non-verbal PMLD student is likely to be immersed in experiential learning.

An individual with low level literacy and/or numeracy ability (and who may have plateaued), may not have a learning disability but may under the definition require ALP although this is clarified in 7.10. It might be advantageous to strengthen this within the initial explanation.

7.22 outlines that a disability preventing or hindering a young person from 'making use of educational or training facilities of a kind generally provided for other of the same age in...mainstream FEIs, and this calls for ALP, then they have ALN' - entry level provision with a specific delivery model (e.g. small group with additional support) would not necessarily prevent or hinder access to education or training and would not be considered ALP based on the profile of that given group of young people and could be part of a universal provision offer.

7.30 - where a young person transitions to an FEI with identified healthcare need, what happens at 18 when the LA responsibility for healthcare needs cease?

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The evidence base is broad and comprehensive, although reads as somewhat exhaustive and is not conducive in managing reasonable expectations and the potential for challenge and subsequent escalation to LAs.

7.59 outlines that a school or FEI 'should' consider seeking external advice and support where a lack of internal expertise is identified. How is it proposed that external resource will be commissioned and resourced, given that the implementation and introduction of the ALNET Act and system would have little impact on financial resources for FEIs? This is referenced again in 7.62 and 7.64.

Generally, the most qualified specialist member of staff within an ALN team of an FEI would be a specialist teacher with the assessment practicing certificate (APC) and relevant professional membership (BDA, SASC, PATOSS, Dyslexia Action) required for the purpose of carrying out access arrangements for examinations - a reasonable adjustment available to any student within the institution.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As an FEI with an on-site early years nursery, we welcome the inclusion and requirements of the Early Years ALN Lead Officer and Early Years ALNCO, although question the capacity of this role in effectively managing provision across a local authority area and having comprehensive knowledge of the settings and nuances of their support provision.

It is important that the Early Years ALNCO has a sound understanding and working knowledge of Early Years development, curriculum and care, including the requirements of Esytyn and the Care Inspectorate Wales in relation to quality of care and provision.

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The introduction of chapter 10 (10.1 and 10.2) sets the tone for ambiguity with the preparation and maintaining of an IDP 'depending on the circumstances', continuing by outlining that an LA would normally only prepare and maintain an IDP where the young person's needs are 'more severe or complex' - what are these thresholds. The answer to this will also be highly dependent on the availability of or access to specific resources or specialist professionals and expertise and will vary greatly between FEIs. Where proximity of LA boundaries means that any one FEI is likely to have students enrolled from multiple LAs, will mean that thresholds and referral processes will be inequitable and varying, resulting in a 'luck of the draw' or postcode lottery culture.

Schools have access to traded services and LA specialist services (educational psychologists, HI and VI support services etc). These services are not extended to FEIs due to the independence through corporation of FEIs, however, funding does not exist in place of this link with LA services to meet the needs of the 16-25 year old remit of scope as a result of the ALNET Act.

The requirements outlined within 10.7 are not reasonable or manageable. In line with the points already outlined in relation to the number of local authority areas services by any one FEI, means that sophisticated systems will need to exist to ensure that the correct signposting and ALN information is included based on the postcode of each student (and applicant). It would be advantageous for Welsh Government to mandate regulations for LAs in relation to consistencies of pan-Wales ALN information and offer.

10.43 states that an FEI 'should' consider consulting an educational psychologist before referring a case to the local authority - how is it proposed that this will be funded by an FEI? There are also risks that LAs will write this into escalation / referral policy expectations based on their own interpretations of 'should' in this instance.

10.72 states that where an LA prepares an IDP for a young person at an FEI, they must also maintain this. It is not clear whether 'maintain' means the planning and chairing of the annual review of the IDP.

Whilst 12.19 outlines 'no entitlement to continuous education or training..... up to the age of 25' specifically in a section of statutory guidance for LAs considering the preparation of an IDP for a young person not at a maintained school or FE. There is no guidance in managing the challenges or risks placed upon FEIs in relation to managing expectations and the responsibilities to cease an IDP. There is risk that such cases will be escalated to an LA at point of ceasing if differences of opinion exist.

An FEI may be able to meet the needs of a young person, as outlined within their IDP, if a specific resource, intervention of specialist was available but would not be deemed as 'reasonable' in terms of the FEIs location, size, budget or experience. This would result in a placement being declined or an IDP being referred to an LA by an FEI (10.37). One of the underpinning aspiration of the ALLNET Act and Code seems to be the approach of meeting more ALN locally, but investment will be required in order to effectively enable this.

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This is untested and uncharted territory for FEIs and the bottle-necking of workload is likely to have unintended consequence and could result in unfair delay for young people and their families. The resourcing requirements to effectively manage transition of young people from school to college (e.g. attendance at school annual review), whilst managing provision and annual reviews of young people with IDPs within an FEI will require infrastructure. This infrastructure will also require systems to enable accurate recording and monitoring of provision, timelines, notifications and consent.

The annual cyclical requirements of IDP reviews means that FEIs will inherit IDPs for young people who in most cases will have had their transition annual review in Year 11 at some point between September and December each academic year. This means these IDPs will require a review in the first term of the first year in their college placement, whilst the FEI releases staff to attend the new Year 11 transition reviews in school. This demand and volume will increase each year for at least the first three years following ALN transformation implementation before FEIs will truly know the full impact on resourcing and workload cycles (and thus whether the timelines outlined are achievable).

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

What expertise or academic stature does a local authority have in deciding 'whether there is a realistic prospect of a young person achieving a desired objective within a reasonable period' (12.22)? This undermines the fundamental role of teaching as a profession.

12.27 - there is little evidence to suggest that any young person without an ALN, only accesses mainstream provision spanning two years. In almost every instance, this is not the case, so how can this be used to apply a general rule of law for a young person with ALN (where the Equality Act would suggest that it could/would take significantly longer to complete a task compare to that of others). This outlook undermines the progression of young people with ALN to progress and achieve through levels (or indeed in a linear way).

12.17 states that 'young people with ALN may need ALP', but the flow diagram in chapter 7 states that if ALP is not required, the young person does not have ALN.

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The IDP focuses far too heavily on need and provision rather than outcome and support to move towards and achieve a given outcome.

There is no space for the views of the young person (this is different to a one page profile) or parent/carer views.

1A.4: Gender - we are unclear as to why this would be required on the IDP. This can be uncomfortable for young people who identify as non-binary or trans.

1A.10: Communication requirements and preferences - should Welsh be more prominent, particularly given that a specific column has been attributed to Welsh within section 2B. This needs to be visible at a glance to ensure that communication to the young person and/or parents and facilitated meetings and reviews and in chosen language.

1B.1 Organisation responsible for maintaining IDP - what is the sign-off process for agreeing to be named within this section (school to FEI or LA to FEI)?

1B.3: Proposed review date - an FEI would not want to inherit a date that a school has decided on and it would not be fair in enabling an FEI to effectively manage the current and incoming workload associated with caseloads and managing IDP reviews.

3C: Transition - shouldn't this section be closer to the start to focus discussions and act as the clear line of sight to outcomes and the provision identified to move towards the identified transition and outcomes?

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We welcome having a mandatory IDP template. Adopting person-centred approaches will ensure that the outcomes and support within the plan will be individualised and reflect the needs of the young person. The content of the IDP is what is vital and this must add value. The IDP needs to remain fluid and responsive to current need and future aspirations and outcomes.

The greater area of concern relating to the IDP is the timely sharing between schools and FEIs. We have concerns that mis-understanding and interpretation of GDPR requirements will prevent sharing.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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The opening lines of the introduction cite 'description of the ALN that acts as the barrier' - this sets the tone for a deficit model rather than a person-centred approach to identifying outcomes and the journey to achieving aspirations and removing barriers.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This provision varies greatly by local authority, so it is difficult to be prescriptive within this section of the Code.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It is unlikely that 16.12 will be achievable for an FEI based on the inherence of school IDPs and their cycle of IDP review dates. It would not be fair of just for a school to specify the next review date within the outlined IDP template where a young person in Year 11 is transitioning from school to an FEI. It would make sense for FEIs to prioritise the IDP reviews of young people within their own institutions who are likely to be in their final year at college and need a well-planned and timely transition to employment or independent living. There is a risk that this bottle-neck particularly within the first term (September - December) each year will result in slippage of reviews taking place and this will require case-by-case management and a pragmatic and risk based approach. Ensuring the a risk-based approach to annual review timetabling and cycles, whilst ensuring that all young people's IDPs are reviewed at least once within an academic year (rather than on or before the anniversary of an annual cycle) would be achievable.

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

See response within question 16 and 18.

The workload requirements for FEIs will be largely driven by a large number of schools for whom the IDPs of young people transitioning will be inherited. This will have serious implications and impact on the resourcing and capacity to attend school annual reviews and facilitate meaningful reviews for enrolled FEI students with an IDP. Without scope to flex dates using a commonsense and best-for-learner approach will inevitably result in annual review dates not being achieved and/or inability to attend school reviews, which will have detrimental impact on the transition of the young person and the ability to plan resource and provision for the college.

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The process to enable this to happen does not exist and will be inconsistent and different within each local authority. This will create inequality of experience for young people within an FEi as a result of the demographic reach of FEIs across local authority boundaries.

It is not clear from the introductory paragraph whether it relates to children or young people. The first sentence and paragraph only refers to the decision of a maintained school. The second paragraph includes FEIs. The headings in the rest of the chapter only refer to school decisions. If the whole chapter is to include children and young people, the introductory paragraph and subsequent sub-headings of the chapter should include decisions of both schools and FEIs.

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 commences with reference to schools and FEIs but this is not then consistent or clear throughout the chapter. A sub-section of the chapter is specific to maintained schools but there is no reference the FEIs and the timeline for an LA in relation consideration by the LA.

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

18.7 - this section needs to be clearer in terms of whether an FEI should invite a parents/carer by default or whether there is an expectation to seek consent prior to each annual review taking place (as the wishes of the young person may change year on year). This point also applies to seeking views prior to the review meeting.

18.19 - this is a new responsibility and workload for FEIs with implications for resourcing (organising, booking, venue availability, resource to chair and resource to update and communicate the updated IDP following the review meeting. There are also resourcing implications in fulfilling the requirement outlined in 18.34.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Given the prominence of this chapter, we feel that it is important to re-order the IDP template to ensure that transition remains a key element of focus for a young person (please see comments in question 18).

Fulfilling the expectations outlined within this chapter will depend greatly on the willingness of schools to engage with FEIs and for a collaborative partnership between both to ensure that the timetabling of transition reviews is manageable when overlaying the reviews of young people already enrolled within the FEI.

We believe that a 'must' should be included within this chapter (19.56 and 19.57) in relation to schools actively engaging with an FEI where the transition is identified as the FEI or where this is one of several options being explored by a young person and their family. Involvement of the FEI within the annual review will also be essential in ensuring that an FEI or provision / support is not outlined and committed too without the consent and agreement of an FEI.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

20.8 - what about refusal to admit by the FEI based on the ALP required and their ability to provide and meet the ALP outlined? Would 20.14 apply in this circumstance?

20.17 - further regulation and guidance is required to determine how an FEI would meet the required ALP as defined within the IDP

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Although, please see response to question 31 in relation to ALP.

There is a risk that local authorities will make finance-driven decisions to request a FEI to become responsible for maintaining the IDP, rather than uphold their duty to promote and protect the best interests of a young people.

It is hard to comment further without knowing the content of the proposed regulation.

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

In principle, yes, although this cannot be truly ascertained within the regulation.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Further guidance is required in relation to escalation for dispute in relation to agreement to cease an IDP. It would also be advantageous to outline the notion of what is meant by a 0-25 agenda and that this is based on individual need, starting point and progress.

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act "promptly" in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This chapter is clear in setting out expectations and the role of the ALNCo. We welcome the flexibility and acknowledgement of the required qualifications and experience and agree that EWC requirements should be a mandatory requirement.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It is vital to consider how local authorities will ensure impartial advice, guidance, advocacy and delivery of dispute resolution (whilst we acknowledge that this is a requirement set out in the code). This cannot be objectively achieved internally, particularly in relation to the topic of ALP or funding of ALP.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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How will a local authority ensure impartiality of outcome as referred to in 25.12? How is it proposed that LAs will deal with the volume of disputes and appeals that may occur?

We welcome the requirement set out in 25.55-25.73 about the requirement for independent advocacy services.

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The introduction of this chapter refers specifically to children and not young people. 27.5 onwards is headed 'children who lack capacity' but 27.7 under this heading discusses FEIs. The remainder of the chapter refers to 'child' and 'children'. Clarity is needed as to whether this applies to young people in FE or just children in school.

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

See response to question 45.

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The experience and specialist skills set / qualifications of the person within this role and their ability to apply this across the setting is essential. Where an ALNCO in an FEI is not a qualified teacher, the undertaking on this qualification arguably would not add value as they would not be a practicing teacher. Much of FEI is vocational based education, therefore the ability to be responsive and apply researched approaches based on sound experience is essential. Furthermore, one of the most important elements of the role is the attributes to be well organised, empathetic and responsive to the needs of young people and other stakeholders. The ALNCo needs to be skilled at drawing upon a range of skills both within the FEI and externally to ensure that young people with ALN are well supported during their time at the FEI.

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Should these responsibilities be more closely reflected within 24.23, so not to be seen as two separate lists of requirements?

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It makes sense for this to be incorporated into the young person's personal education plan, rather than a separate plan with overlaps and repetition.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

5.4 cites 'capability of the workforce' but this cannot be used as rationale for not providing ALP or robustly reviewing and identifying gaps in provision or need. The 'should' used in relation to Welsh language provision undermines the Welsh Government strategy 'Cymraeg 2050: A Million Welsh Speakers' and 2.24 - 2.26 - 'A Bilingual System'. 5.18 references 'the range and level of Welsh language provision needed'. The Code seems to place more responsibility and expectation on schools and FEIs in relation to the Welsh language (e.g. 18.14), than on LAs to provide ALP and specialist workforce through the medium of Welsh. These become 'musts' in 10.20 when outlining FEI responsibilities in relation to Welsh language.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Exploration and identification of joint commissioning and collaborative approaches to shared provision to ensure scales of economy and access.

Question 65 – 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.

Respondent Details

Information

Name

Sue Price

Organisation (if applicable)

Coleg Cambria

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The terms are clearly defined.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We agree with the general principle to act promptly or within a given timescale, however, we are concerned about the actual timescales based on administration demands.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The exceptional situations, as described, are valid and appropriate.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The structure has overall clarity and FEI obligations are clearly defined.

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is appropriate if supporting guidance is available and user-friendly.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

N/A

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The five principles outlined will ensure a person-centred approach.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance supports Person Centred Practice and provides helpful recommendations.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United

Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A Specific to Local Authority.

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A Specific to Local Authority.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A Specific to Local Authority.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Clarification of the term 'significantly greater than' is required.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the

sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is essential that it is made clear to all stakeholders 'what constitutes Additional Learning Provision' and 'what constitutes Universal Provision'. Without this clarification and guidance, disagreements are likely.

7.11 This requires additional guidance documentation.

Without guidance on the ALP expectations, an FEI could be required to provide ALP that is not within the usual sector resources. The cost implications of this will be prohibitive and may result in disagreement.

7.17 We would consider provision for bereavement or bullying to be universal not additional.

7.19 Are the expected timescales to be based on an individual or as a whole setting? ie: Does WG expect each setting to have a planned timescale?

7.64 If Specialist Services (ie: Educational Psychologist) are required to undertake initial assessments and if this is the responsibility of the FEI, a significant cost would be incurred. Therefore, this requires further consultation.

7.69 Decisions about the efficient use of resources will vary from setting to setting. Identification of the efficient use of resources would enable all Welsh FEI's to have a similar offer, ensuring standardisation and reducing disagreements.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes the guidance on the role of the ALNLO is appropriate for achieving objectives

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The general structure is clear through the use of sub-headings. Language and terminology is appropriate for ALN.

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It is fundamental to person centred approaches that an IDP is developed within a short timescale, however, there will be some cases where it will be unrealistic to adhere to this. To support these exceptions, it would be beneficial to extend the 'must' timescale to nine weeks with a 'should' timescale at seven weeks. This would allow for extenuating circumstances.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

12.22 This raises queries about who within the LA decides on a YP's capacity to achieve objectives. Potentially this could lead to disagreements.

12.27 Proposing a time-scale to increase Independent Living Skills contradicts 12.23, where person centred objectives are outlined. If an FEI is able to evidence that significant progress is being made and can demonstrate that further progress can also be made, YP should be entitled to continue in education until outcomes are achieved. However, Post 25, it is reasonable to assume that formal education is completed.

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

13.14 - There are some questions of the validity of asking for Gender, this might be more appropriate if there was an additional question with pronoun preference – effective consultation from the LGBTQ community would clarify this.

13.44 - Consultation with Health over ALP prior to finalising the IDP may cause delays and therefore the 7 week timescale becomes unrealistic.

13.59 - Clarification of the statutory nature of the annex is required.

13.61 – Clarification required as to the authenticity of the information provided – is this information to be evidence based or gained from YP/parents?

Section C – It is very positive that transition is included in the IDP and will benefit the establishment of destinations at an earlier stage.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The form is appropriate and contains the essential elements, however, ease of use might be improved by:-

- Aligning the ALN with the ALP for clear cross reference.
- Including review and evaluation information directly onto the form for recording and monitoring.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Post 16 Transport can be a barrier to some learners with complex needs attending an FEI. Consultation to classify these barriers would be beneficial.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clearly outlined and summarised in the process map.

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is a realistic timescale – unlike the development of an IDP where significant evidence is to be secured within the fixed timescale, this is less likely in the case of reviews.

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A for FEI

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

N/A for FEI

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance is comprehensive and appropriate and focused on a Person Centred approach. This is enhanced through identification of the role of the IDP Coordinator.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

There is clear guidance that supports the transition process and emphasises the impact of early planning. It is extremely helpful that transition planning has been incorporated into the IDP, therefore, ensuring timely review.

19.12 – Timescales for transferring information are required.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

A universal platform to transfer the IDP between settings is essential for GDPR compliance and to ensure effective information sharing.

Timescales for the transfer/sharing of IDP's from schools to an FEI are required to ensure that information is shared in a timely manner. This will enable effective support and resource planning. Clarification needs to be made as to the legal aspect of sharing IDP's whilst being maintained by one setting.

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

20.12 – Clarity is required to the nature of the consultation within this process. A template for requests from LA to FEI would formalise the consultation.

20.18 – This would need to be shared electronically

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

21.7 – 21.9 - Clear, national guidance on Universal Provision is required to ensure that decision making is robust, transparent and standardised.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clearly outlined.

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

21.19 Assurance that exception to the 8 week timescale for appeal will NOT be accepted is essential for the process.

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is positive that the code has made provision for this cohort of learners.

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

23.3 -23.5 – It remains unclear as to the responsibilities for FEI's and the reciprocal arrangements with England. It would be helpful if further guidance is provided for Border Colleges, maintaining both EHCP's and IDP's.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

24.16 In a large FEI, it is unrealistic that a named ALNCo will personally carry out the duties as described in 24.12 – 24.22. It is more likely that there will be a team undertaking these duties and responsibilities because of the numbers of learners with ALN. Therefore wording needs to be adapted to address this (ie: or be responsible for/ ensuring that... etc.)

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

To maintain positive and trusting relationships with young people, parents and carers, it is essential that FEIs be supported by LAs to resolve disagreements and avoid tribunals. This needs to replicate the offer to the schools (chapter 9).

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The duty on LA's to reconsider decisions made by a school (Chapter 9) should be extended to include FEIs. The impact on FEIs managing and administering this process is significant, as is the potential to impact negatively on the relationships between the FEI and Learners/Parent/Carers.

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

The Draft ALN Code is well structured and is user friendly. The Code supports a person-centred approach.

Additional, supportive guidance is required to supplement the Code for clarity.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Whereas the opportunities for mediation do offer an opportunity for resolution, to ensure a fair and just system, it is necessary that the tribunal makes a decision based solely on the same information that has been provided to the FEI who made the original decision. This would therefore deflect tribunal hearings.

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Statutory timescales should be adhered to without exception.

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

ALNCOs, including current SENCos would benefit from having an up to date, specific, nationally recognised ALNCo qualification and/or training based on the requirements of the new Code. This should be achieved within a set timescale of the Code being published.

Question 56 – Do you agree with the tasks that ALNCOs must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

An ALNCo in an FEI could not personally complete all the duties and responsibilities outlined in the Code without the support of an ALN team which may include specialist tutors, IDP and support coordinators. It must be made clear within the Code that the duty on the ALNCo is to ensure that the mandatory tasks are completed.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This will ensure a coordinated approach to identifying the outcomes and provision needed for a child or young person so that they can achieve their potential without the need for repetition and duplication.

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This requires further clarification.

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

There will be a move from the 'medical model' to the 'social model' whereby Children and Young People will benefit from a more 'joined up' approach to their ALN. There will be an improved transition for YP from school to FEI, with information being shared more effectively.

For Early Years providers and FEI's, the implications of implementation will be significant. There will be a requirement for new structures, staffing and statutory working methods. This financial and strategic pressure should not be underestimated and will require support.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

The Code will ensure that young people who wish to access the services in Welsh should be afforded the opportunity to do so. However, our audit of current provision and action plan does highlight the extent of the challenge that we are facing due to lack of Welsh speaking staff with expertise at the college.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

The Code is sufficiently robust to drive improvements and ensure the rights of Welsh speakers are respected.

Question 65 – 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.