

This discussion paper has been written by officials of the Welsh Government. Ministers have not had an opportunity to comment on the contents. Exemplifications of changes are provided simply to inform discussion by DSG members. They are not Welsh Government proposals or statements of Government policy for or against changes.

Post-16 Specialist Placements for young people with additional learning needs

Background

1. The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (*“the ALN Act”*) makes provision for a new statutory framework for supporting children and young people with additional learning needs (ALN). This replaces existing legislation surrounding special educational needs (SEN) in schools and the assessment of children and young people with learning difficulties and/or disabilities (LDD) in post-16 education and training. The ALN Act gained Royal Assent on 24 January 2018 and it is intended that implementation will begin in September 2020, over a three year period to summer 2023.
2. As a result of the ALN Act, the current legal duty on Welsh Ministers to secure specialist post-16 educational provision for young people with LDD will transfer to local authorities (LAs). Along with this transfer of responsibility will be the transfer of funding to support LAs to deliver their duties.

Previous discussion on this topic

3. The previous paper on this topic was tabled and discussed at the DGS meeting of July 2018 (*DSG (2018) paper 17 – post-16 LDD specialist placements*). The discussion recognised that there is a need to consider:
 - a) the timing of the transfer of responsibility and funding;
 - b) the formula for the distribution of funding (which may need to factor in population data and/or historical data); and
 - c) the mechanism for the transfer of funding (which might include grant funding to LAs in first instance before moving to the settlement under the RSG, to allow for a mixture of formula and an allocation to take account of any pre-agreed programmes of study for learners whose placements had been approved by the Welsh Government).
4. The action was for Welsh Government officials to bring a paper back to the group with options for distributing the funding for post-16 specialist placements.
5. This paper presents the Welsh Government’s proposal in relation to (a) the timing of the transfer of funding.
6. In relation to (b) the formula and (c) the mechanism for transferring the funding to local authorities, options are currently under consideration with a view to presenting a detailed options paper to the DSG for consideration at its January 2019 meeting. This will include up to date population data, alongside historical funding data, to inform the DSG’s consideration of the options.

Proposal for timing of transfer of responsibility and funding

7. During the summer of 2018, a scoping exercise to inform consideration about the timing of the transfer of responsibility for placing and funding learners at independent special post-16 institutions (ISPIs) to LAs, was undertaken. This helped inform our proposal in relation to when transfer of funding and responsibility to LAs could reasonably take place.
8. The Cabinet Secretary for Education has announced her intention that the ALN Act will commence from September 2020 and the implementation period will run over three years, ending in July 2023. The majority of regulatory powers are expected to come into force in September 2020. LAs will only be able to secure specialist placements at establishments which are on the Welsh Government ISPI list. This list is a requirement under the ALN Act, for which regulations will be made in 2019. The regulations regarding the ISPI list will need to be made available ahead of other regulations coming into force to allow for establishments to apply to be on the list. Time will also be needed for LAs to plan for placing learners into ISPIs.
9. In consideration of the scoping study and the timelines for regulations and the process for ISPIs to apply to be on this list, policy officials believe the earliest the transfer of funding to LAs can reasonably take place is the start of the financial year 2021/22. LAs would be responsible for securing specialist placements beginning from the start of the following academic year (i.e. September 2021), and could begin planning for these from September 2020 at the point at which their other functions under the ALN Act commence.
10. It is therefore our intention that the transfer of funding to LAs for the securing of specialist placements should take place in **April 2021**.

Views sought

11. Members are asked to provide their thoughts on the proposed timeline for transferring funding into the RSG. Members are also asked to give further consideration to distributional implications of the transfer of funding to help inform options for the settlement.

**Support for Learners Division
Welsh Government**